Supreme Court, U.S.
FILED
06-233 AUG 11 2006
OFFICE OF THE CLERK

(3)

No. 06-

IN THE

Supreme Court of the United States

STACY A. GIBSON,

Petitioner,

v.

ADA COUNTY, *et al*,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF IDAHO

PETITION FOR WRIT OF CERTIORARI

APPENDIX – VOLUME II

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CHAPTER 7

COUNTY PERSONNEL SYSTEM

SECTION:

1-7-1:	Purpose And Scope
1-7-2:	Principles And Guidelines
1- 7 -3:	Administration
1-7-3-1:	Commissioners' Personnel Advisory Council
1-7-3-2:	Personnel Director
1- 7 -4:	Rules And Regulations

1-7-1: PURPOSE AND SCOPE[1]:

A. Purpose: The purpose of this chapter and its attendant rules is to establish a uniform system of personnel administration for the classified employees of Ada County. It is declared to be the policy of the county that this system is to provide a means whereby classified employees shall be selected, retained and promoted on the basis of merit and their performance of duties, thereby affecting economy and efficiency in the administration of county government.

B. Scope Of Rules And Regulations: Unless specifically excluded in chapter 11 of this title, all offices, departments and agencies of the county shall be subject

[1] Adopted pursuant to authority conferred by article XII, section 2, of the constitution of the state of Idaho and title 31, chapter 8, Idaho Code.

to these rules and regulations without limitation, including all offices and agencies under the authority of and responsible to the county assessor, county clerk-auditor-recorder, county treasurer, county prosecuting attorney, county sheriff, county coroner, county commissioners, western Idaho fair and fourth district court. Ada County agencies, departments and officers excluded from these rules and regulations include: the Ada planning association, air quality board, highway district and mosquito abatement district. The system of personnel administration created by these rules and regulations and that body of positions to which these rules and regulations apply shall be referred to as the "classified service".

C. Modifications: The county reserves the right to change any or all of these rules and regulations or any portion thereof, at any time, without any advance notice. Nothing in this chapter shall be construed otherwise. (Ord. 110-18-85, 1-21-1985; amd. Ord. 141, 8-29-1985; amd. Ord. 143, 11-20-1985; amd. Ord. 179,8-24-1987; amd. Ord. 182, 9-24-1987; amd. Ord. 204, 6-19-1989; amd. Ord. 205, 7-24-1989; amd. Ord. 219, 5-3-1990; amd. Ord. 224, 7-9-1990; amd. Ord. 246, 6-18-1992; amd. Ord. 278, 9-13-1994; amd. Ord. 288, 3-2-1995; amd. Ord. 308, 6-25-1996; amd. Ord. 328, 4-8-1997; amd. Ord. 335, 7-15-1997; amd. Ord. 343, 9-9-1997; amd. Ord. 351, 1-13-1998; amd. Ord. 371, 4-27-1999; amd. Ord. 381, 9-7-1999; amd. Ord. 388, 2-1-2000; amd. Ord. 400, 10-24-2000)

1-7-2: **PRINCIPLES AND GUIDELINES:**

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A. All appointments and promotions in the classified service and all measures for the control and regulation of employment of such positions and separations therefrom, shall be based on merit, efficiency and fitness to serve.

B. No person shall be disqualified from taking an examination, from appointment to a position, from promotion, or from holding a position in the classified service because of race or national origin, color, sex, age, political or religious opinion or affiliation of nonjob-related handicap, nor shall any person be separated, demoted or transferred from any position in classified service or otherwise discriminated against in compensation, terms, conditions or privileges of employment for any of these reasons.

C. Each county-elected official and appointed department head, as assigned authority by the responsible elected official, shall retain the right, in accordance with applicable laws and these rules to:

1. Direct employees of the county;

2. Hire, promote, transfer, assign, determine work schedules, and retain employees in positions within the county, and to suspend, demote, discharge or take other disciplinary action against employees for cause;

3. Relieve employees from duties because of lack of work;

4. Maintain the efficiency of the government operations entrusted to them;

5. Determine the methods, means and personnel by which such operations are to be conducted;

6. Take the necessary actions to carry out the mission of their agency.

D. Repealed.

E. Employees shall be provided opportunities for training as required to assure high quality performance and career development when such training is considered advantageous to the county as determined by elected officials or department heads.

F, Employees shall have the right to fair consideration of their grievances and appeals, and shall be free from discrimination or reprisal because of an exercise of their rights through grievance procedures. Employees may be represented by a person of their own choosing.

G. Employees shall be treated equitably with reference to hours of employment, holidays, approved leaves and other terms and conditions of employment. (Ord. 110, 12-10-1980; amd. Ord. 149, 4-2-1986; amd. Ord. 182, 9-24-1987)

1 -7-3: **ADMINISTRATION:**

1- 7 -3-1: **COMMISSIONERS' PERSONNEL ADVISORY COUNCIL**: (Ord. 110, 12-10-1980; rep. by Ord. 141, 8-29-1985)

1-7-3-2: **PERSONNEL DIRECTOR:** The personnel director shall be responsible for assisting the board and

other elected officials in the administration of the personnel system and in the conduct of technical personnel activities. Other duties and responsibilities, subject to the review and approval of the board, shall include, but are not limited to, the following:

A. For those departments which are directly responsible to the board, the personnel director shall have such additional authority, duties or responsibilities as may be assigned or delegated by the board;

B. The collection, maintenance and dissemination of job applications to the different county offices and departments;

C. Monitoring the operation and effect of this chapter, the rules and regulations made hereunder; making reports of irregularities to the board and other elected officials, and developing such proposed personnel rules, regulations and procedures as may be desired by the elected officials;

D. Developing and maintaining a position and classification system, compensation plan, grievance policy and procedure and such other special programs as may be required for approval by the elected officials;

E. Reviewing state and federal laws, promulgations for their effect on county personnel operations and suggesting appropriate courses of action to bring the county personnel system into compliance;

F. Establishing and maintaining personnel records and data for reference, litigation, equal employment

opportunity reporting, employment verification, and for such other purposes as may be necessary;

G. Providing all employees with access to an up-to-date copy of all personnel rules, regulations and policies which may be adopted pursuant to this chapter;

H. Conducting new employee orientations and providing information on county benefits to county employees; and

I. Conducting salary surveys or participating in salary surveys of private industry and other governmental units as it deems necessary, but not less than every fiscal year. (Ord. 110, 12-10-1980; amd. Ord. 149, 4-2-1980; amd. Ord. 179, 8-24-1987; amd. Ord. 278, 9-13-1994)

1- 7 –4: **RULES AND REGULATIONS**[2]: (Ord. 110, 12-10-1980; rep. By Ord. 141, 8-29-1985)

CHAPTER 7

COUNTY PERSONNEL SYSTEM

ARTICLE A. DISCRIMINATION

SECTION:

1-7A-1: Equal Employment Opportunity And Affirmative Action Policy

[2] See articles A through M of this chapter.

Appendix A

1-7A-2: Harassment And Discrimination Policy

1-7A-3: Americans With Disabilities

1-7A-1: **EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION POLICY:**

A. It is the policy of Ada County to comply with the guidance set forth in title VII of the civil rights act of 1964, and appropriate consideration will be given to applicable federal and state regulations.

B. Ada County will hire, promote, classify, transfer, discipline and discharge all persons without reference to race, color, religion, sex, age, national origin or disability. No class of jobs will be closed to any individual because of the above referenced criteria.

C. Personnel will be compensated on the basis of equal pay for equal work. No individual will receive reduced or augmented compensation for work on the basis of race, color, religion, sex, age, national origin or disability. (Ord. 110, 12-10-1980; amd. Ord. 278, 9-13-1994; amd. Ord. 364, 9-1-1998; amd. Ord. 370, 3-16-1999)

1-7A-2: **HARASSMENT AND DISCRIMINATION POLICY:**

A. Policy: Ada County is committed to providing a work environment where its employees and those served by the county are treated respectfully and are free from harassment. Ada County prohibits employee harassment. Harassment is considered misconduct.

Appendix A

Employees are responsible for respecting the rights of coworkers and others to be free from harassment. Further, all managers and supervisors are responsible for ensuring an atmosphere free of harassment, sexual and otherwise. Anyone found to be engaging in harassing behavior will be subject to prompt, corrective and/or disciplinary action proportionate to the offense.

Employees of Ada County who feel they have been harassed should report the offensive behavior through one or more of the complaint procedures outlined in this policy. Retaliation against an employee or a former employee who reports harassment or participates in an investigation is strictly prohibited.

Managers and supervisors of Ada County are required to take prompt, appropriate action upon observing or becoming aware of harassing behavior. The failure of managers or supervisors to respond promptly to an observed or reported instance of harassment may result in disciplinary action against the manager or supervisor.

B. General Harassment:

1. General harassment is a violation of this policy. It is conduct that is insulting, degrading and shows hostility toward an individual, such that a reasonable employee would find it offensive, and it occurs with sufficient frequency such that it:

a. Has the purpose or effect of creating an intimidating, hostile or offensive environment; or

b. Has the purpose or effect of unreasonably interfering with an individual's work performance.

2. Prohibited general harassment includes the following types of behavior:

a. Written, graphic, or other communication which contains degrading comments, jokes, or negative stereotyping;

b. Intimidating or threatening conduct that is directed at an employee.

3. General harassment does not include. the following management actions: duty assignments, disciplinary actions and performance evaluations.

C. Procedures For Reporting General Harassment: If an employee feels he or she is the target of general harassment, they are encouraged to report the behavior. If comfortable doing so, the employee may address the issue with the harassing party directly, either in person or in writing. If uncomfortable with confronting the harassing party directly, or, if after doing so the behavior has not stopped, the employee is encouraged to report the behavior to any manager, supervisor, the department head or elected official within the employee's department. Reports of general harassment will be investigated by the department head or elected official or his or her designee, pursuant to departmental policies and procedures, and disciplinary measures will be taken if appropriate.

Appendix A

D. Unlawful Discrimination:

1. Harassment which is based on an employee's age, gender, color, national origin, religion or disability is a form of unlawful discrimination. Such behavior is a violation of this policy and may also be a violation of State and Federal laws prohibiting employment discrimination.

2. Sexual harassment is unlawful discrimination based on gender and is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

E. Procedures For Reporting Unlawful Discrimination:

1. If an employee feels he or she has been the target of unlawful discrimination, the employee's remedies are as follows:

a. If comfortable doing so, the employee may address the issue with the offending party directly, either in person or in writing.

b. If uncomfortable with confronting the offending party, or, if after doing so the behavior has not stopped, the employee must report the behavior to any manager, supervisor, the department head or elected official within the employee's department or to the Director of Human Resources.

c. Employees of departments that conduct formal internal investigations of misconduct must report unlawful discrimination as prescribed by the regulations and procedures set forth by such department.

d. An employee who is uncomfortable with the reporting mechanisms outlined in this subsection is still strongly encouraged to discuss the matter with the Director of Human Resources and allow the County the opportunity to intervene in an appropriate manner. The County cannot assist an employee who does not report the discriminatory conduct.

F, Investigations Of Unlawful Discrimination:

1. When unlawful discrimination or a report of such conduct comes to the attention of an elected official, department head, supervisor or manager, that individual must act promptly to ensure that the situation is assessed, thoroughly investigated, and that appropriate

resolution measures are implemented.

2. Departments that conduct formal internal investigations of misconduct shall investigate claims of unlawful discrimination as prescribed by the regulations and procedures set forth by such department.

3. All other departments are responsible for contacting the Director of Human Resources as soon as practical, but not later than five (5) business days after unlawful discrimination has been observed or reported. The Director of Human Resources or his or her designee, after consultation with the Prosecuting Attorney's office, civil division, within five (5) business days of receiving a report of unlawful discrimination, shall provide a recommendation of follow-up assessment or inquiry and/or formal investigation, as warranted, to the responsible elected official. To the extent further investigation is conducted, confidentiality will be maintained on a need to know basis. Management is responsible for assisting and cooperating in any investigation that is conducted. All investigations, except those conducted in departments with formal internal investigative procedures, shall be conducted by or at the direction of the Director of Human Resources, who shall, at the conclusion of an investigation, cause a written investigative report to be prepared, detailing the charges and the conclusions of the investigator.

4. If an employee is the target of unlawful discrimination by a noncounty employee, the conduct should be reported as provided in subsection E of this Section. Ada County will promptly contact that

individual's employer and seek to establish guidelines for conducting an appropriate investigation. To the extent Ada County is not authorized to take disciplinary action against an individual found to be unlawfully harassing an employee, Ada County is nonetheless committed to protecting its employees, and will, with the employee's consent, take whatever measures are reasonably necessary to ensure that the employee is able to work in a harassment-free environment.

5. Elected officials of Ada County who are found in violation of this policy will be subject to sanctions, as permitted by State law.

6. An employee who fabricates a charge of harassment or retaliation, or who fails to provide truthful information during an investigation, is subject to disciplinary action, up to and including termination.

G. Follow-Up Procedures After Investigation Of Unlawful Discrimination:

1. Departments that conduct formal internal investigations of unlawful discrimination shall utilize the follow-up procedures prescribed by that department's policies and procedures.

2. Following an investigation of unlawful discrimination conducted by or at the direction of the Director of Human Resources, the Director or his or her designee shall meet as soon as practical, separately with the complainant and the alleged harasser to discuss the findings of the investigative report. The Director or his or her designee shall also discuss the findings and

appropriate disciplinary measures with the supervisor(s) responsible for an employee found in violation of this policy. Discipline, up to and including termination, may be initiated against any employee who violates this policy. In order to provide and maintain a workplace free of harassment, Ada County may pursue a disciplinary action against an employee found in violation of this policy with or without the authorization of the complainant. To ensure that retaliatory actions are not taken against any employee who reports or is found to have been the target of unlawful discrimination, the Director or his or her designee shall contact the complainant not less than once every sixty (60) days for at least one year following the complaint, at which time the employee should relay any continuing problems or acts of retaliation.

3. At the conclusion of an investigation, the Director of Human Resources shall retain the original investigative report and shall provide a copy of the report to the Prosecuting Attorney's office, civil division, who shall maintain a separate and confidential file for records of unlawful discrimination investigations, along with any records of preventive or corrective action taken by any supervising elected official. Any employee disciplined for violating this harassment policy shall have a copy of the notice of disciplinary action placed in his or her permanent personnel file.

H. Retaliation:

1. Retaliation for reporting unlawful discrimination or for participating in an investigation is strictly

prohibited. Retaliatory actions may include, but are not limited to, unsubstantiated negative evaluations, inappropriate changes in job assignments or duties, or negative treatment by coworkers. Retaliation does not include disciplinary actions that are taken against an employee who files a fabricated claim of harassment, nor does it include disciplinary actions taken against an employee for performance issues not related to the harassment complaint.

2. Employees should report acts of retaliation arising out of general harassment as provided in subsection C of this Section. The department head, elected official, or his or her designee must investigate the report and take appropriate corrective action.

3. Employees should report acts of retaliation arising out of unlawful discrimination or an investigation of such conduct as provided in subsection E of this Section. Such reports must be investigated thoroughly. Supervisors, managers or elected officials who suspect acts of retaliation or receive reports of retaliation shall report such incidents to the Director of Human Resources in the same manner as reports of unlawful discrimination. The Director shall cause any such report to be investigated as provided in subsection F3 of this Section. Appropriate follow-up measures shall be employed as necessary. Disciplinary action, up to and including termination, may be taken against anyone who violates this retaliation policy.

I. Responsibilities For Preventing Harassment And Retaliation:

Appendix A

1. Managers and supervisors have the primary responsibility for creating and sustaining a harassment-free environment through proper supervision, training, and clear communications.

2. All county employees are responsible for assisting managers and supervisors in creating and sustaining a harassment-free environment by respecting the rights of others to be free from harassment and acts of retaliation.

3. Persons who have been harassed are responsible for taking advantage of the options available to them for preventing or correcting harassing behavior and preventing or correcting acts of retaliation. (Ord. 180, 9-10-1987; amd. Ord. 364, 9-1-1998; amd. Ord. 370, 3-16-1999)

1-7A-3: **AMERICANS WITH DISABILITIES:**

A. It is the policy of Ada County to comply with the Americans with disabilities act, and appropriate consideration will be given to applicable federal and state regulations.

B. Ada County shall not discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training and other terms, conditions and privileges of employment.

C. Ada County will provide "reasonable accommodations", as defined in the Americans with

disabilities act, to the known physical or mental limitations of the applicant or employee who is a qualified individual with a disability unless such accommodation would impose an undue hardship on the county.

D. Ada County will not retaliate against an applicant or employee who is a qualified individual with a disability because the applicant or employee asserted his or her rights under the Americans with disabilities act. (Ord. 278, 9-13-1994; amd. Ord. 370, 3-16-1999; amd. Ord. 383, 10-12-1999)

CHAPTER 7

COUNTY PERSONNEL SYSTEM

ARTICLE B. DEFINITIONS[1]

SECTION:

1-7B-1: Definitions

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[1] Prior ordinance history: Ord. 110, 12-10-1980; Ord. 110-2-83, 9-14-1983; Ord. 110-17-85, 1-15-1985; Ord. 110-18-85,1-21-1985; Ord. 141,8-29-1985; Ord. 146, 1-22-1986; Ord. 157, 11-12-1986; Ord. 162, 12-17-1986; Ord. 163, 12-17-1986; Ord. 173, 6-22-1987, eff. retroactive to 1-1-1987; Ord. 179,8-24-1987; Ord. 180,9-10-1987; Ord. 182,9-24-1987; Ord. 186, 3-3-1988; Ord. 219, 5-3-1990; Ord. 224, 7-9-1990; Ord. 239, 5-16-1991; Ord. 248, 6-22-1992; Ord. 273, 3-24-1994; Ord. 278, 9-13-1994; Ord. 340, 9-2-1997; Ord. 369, 2-23-1999.

Appendix A

1-7B-1: **DEFINITIONS:** Each of the terms defined in this rule shall have the meaning given herein unless a different meaning is clearly required by the context.

ALLOCATION: The assignment of a class to a pay band in the compensation schedule.

APPOINTMENT, EMERGENCY: Appointment of a person, as an at will employee, to a position for a period of time not to exceed fifteen (15) calendar days when an emergency exists in which there is immediate peril to life or property.

APPOINTMENT, PERMANENT: The appointment to a permanent, classified position of a person who has successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under application of the provisions of these rules and regulations.

APPOINTMENT, PROBATIONARY: The appointment of a person to a permanent, classified position for which the person has qualified, but is serving a work trial period

	prior to certification to a permanent appointment.
APPOINTMENT, TEMPORARY:	Appointment of a person, as an at will employee, to a position in which employment will not exceed eight (8) months during any twelve (12) month period. Employees working under contracts, such as those provided for by the job training partnership act, shall not be considered permanent employees where their employment exceeds eight (8) months in duration.
BOARD:	The board of county commissioners.
BREAK IN SERVICE:	That period of time immediately following termination of employment with the county which extends to any subsequent employment with the county. A break in service includes, but is not limited to, terminations and resignations.
CLASS:	A group of positions sufficiently similar as to the duties performed, degree of supervision exercised or required, minimum requirements of training,

	experience or skill, and other characteristics so that the same title, and same tests of fitness and the same schedule of compensation may be applied to each position of this group.
CLASSIFICATION AND COMPENSATION SCHEDULE:	A listing of all classes utilized by the county listed by title, class code, and pay band to which allocated by the board.
CLASSIFIED SERVICE:	The system of personnel administration created by this chapter, and that body of positions, as outlined in subsection 1-7-1 B of this chapter, to which these rules and regulations apply.
COMMISSIONED OFFICER:	Any member of the Ada County sheriff's office who has sworn under oath to support and defend the constitution of the United States and the constitution and laws of the state of Idaho, has the peace officer's power of arrest, and is required to be certified as a peace officer by the Idaho peace officers standards and training council.

Appendix A

COMPENSABLE TIME:	All the time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed workplace, including all work which occurs with the knowledge or permission of the employer, with the exception of time spent in an organized program of related supplemental instruction by employees working under a bona fide apprenticeship program approved by the bureau of apprenticeship and training, U.S. department of labor.
COMPENSATORY TIME OFF:	Approved paid time off from duty provided as compensation for overtime worked, or approved paid time off from duty provided in exchange for accumulated sick leave.
COUNTY:	Ada County and the elected officials of each department, agency or office of Ada County.
DEMOTION:	The reduction of an employee from a position which the employee occupies in one class to a position in another class with a lower entrance salary.

Appendix A

DEPARTMENT:	A subdivision or branch of administration within the county government which may be comprised of one or more divisions.
DEPARTMENT HEAD:	Any nonelected official in charge of any department, agency or office of Ada County government.
DISABLED VETERAN:	A person who had active service in any war or conflict officially engaged in by the government of the United States and who is officially recognized by the United States veterans' administration as having a disability incurred in service.
DISCIPLINARY REVIEW:	A formal period of special review for the purposes of evaluating and correcting any or all aspects of an employee's behavior, conduct, activities, performance of duties, appearance, attitude, maintenance of qualifications and certifications, ~~, etc~~., which may involve close supervision, frequent and close observation, documentation, and evaluation for compliance with standards or

requirements for his or her department or office.

DISMISSAL: The termination of employment of an employee at the determination of the elected official or department head when no resignation or application for retirement is submitted by the employee.

EMS FIELD PERSONNEL: Those employees of the emergency medical services department whose primary responsibility is to provide out-of-hospital emergency medical care and transportation.

ELECTED OFFICIAL: The board of county commissioners, prosecuting attorney, treasurer, assessor, clerk-auditor-recorder, sheriff and coroner of Ada County. And, for the purposes of this personnel ordinance and all administrative functions addressed herein, such as, but not limited to, hearing disciplinary appeals and nondisciplinary grievances, the administrative judge for the fourth judicial district court who has supervisory control over the juvenile court services

department and the fourth district court or his or her designee.

EMERGENCY SERVICES PERSONNEL: Employees in the sheriff's department who are commissioned officers with peace officers' power of arrest and who are required to be certified as peace officers by the Idaho peace officers standards and training council, or are assigned as security officers within the sheriff's security services division; and field personnel in the emergency medical services department.

EMPLOYEE: Any person in the employ of a department of Ada County who is paid a salary or wage, excluding officials or officers elected by popular vote.

EMPLOYEE, ADMINISTRATIVE: Any person appointed to a position and who meets the following criteria:

A. Performs responsible office or nonmanual work directly related to the management policies of a department or section; and

B. Customarily and regularly exercises discretion and independent judgment, as distinguished from using skills and following procedures. The employee must have authority to make important decisions; and

C. Regularly assists a bona fide executive or administrative employee; or works, under general supervision, along specialized or technical lines requiring special training, experience or knowledge; and

D. Is paid more than the amount of pay set forth in the fair labor standards act.

EMPLOYEE, AT WILL: Those employees of Ada County, as specified in subsection 1-11 A-1 B of this title, who serve at the will and pleasure of their supervising elected official, and whose employment may be terminated at any time, with or without cause, and who are not subject to the rules and regulations of the classified service as outlined in this chapter, but who are subject to the rules and regulations of at

will personnel as outlined in chapter 11 of this title.

EMPLOYEE, CLASSIFIED: Those employees, as specified in subsection 1- 7 -1 B of this chapter, who are subject to the rules and regulations of the classified service, as outlined in this chapter.

EMPLOYEE, EXECUTIVE: Any person appointed to a position equivalent to a department head or above, and who meets the following criteria:

A. An individual whose primary duty is management of a department or section; and

B. Who customarily and regularly directs the work of two (2) or more other employees; and

C. Who has the authority to hire and fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement or promotion or any other change of status of other employees will be given particular weight; and

D. Who customarily and regularly exercises discretionary powers; and

E. Who is paid more than the amount of pay set forth in the fair labor standards act.

EMPLOYEE, KEY: A salaried family and medical leave act-eligible county employee who is among the highest ten percent (10%) of all salaried and nonsalaried, eligible and ineligible county employees.

EMPLOYEE, PART-TIME: Any employee whose usual scheduled work is less than forty (40) hours in a period of one hundred sixty eight (168) consecutive hours.

EMPLOYEE, PROFESSIONAL: Any person appointed to a position and who meets the following criteria:

A. An individual whose primary duties consist of the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual

instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual or physical processes; and

B. Whose work requires the consistent exercise of discretion and judgment in its performance; and

C. Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

D. Who is paid more than the amount of pay set forth in the fair labor standards act. Provided, that this subsection concerning pay band shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches.

Appendix A

EMPLOYEE, PROJECT AT WILL:	An employee hired for the purpose and for the duration of a particular project and/or contract. Project at will employees are at will employees and remain employees of Ada County only until the project has been completed and/or the contract has been terminated. Employment eligibility for project at will employees may be restricted by law, grant or contract requirements to specific individuals or groups on the basis of nonmerit selection requirements.
EMPLOYEE, TEMPORARY:	Any at will employee holding a position for which the appointment shall not last longer than eight (8) months in any twelve (12) month period, excluding employees appointed under special grants such as those provided for in the job training partnership act.
EXAMINATION:	The application of written tests, oral interviews, performance tests, investigations, psychological tests, physical

evaluation, or any other measure of job-related ability.

FIVE LEVEL RATING SYSTEM: A performance evaluation rating system which uses five (5) levels for rating employees' job-related performance, such as outstanding, very good, good, marginal, unsatisfactory, or the equivalent.

INBAND INCREASE: Movement of an employee's rate of pay from a lower to a higher rate of pay within the same pay band.

INBAND REDUCTION IN PAY: A reduction of an employee's rate of pay within the pay band to which the employee's class is allocated.

INCUMBENT: Any person holding a position in the county service regardless of status.

INDIVIDUAL WITH DISABILITY: Any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such

impairment, or is regarded as having such an impairment.

INTERMITTENT LEAVE: Leave relating to family and medical leave which is taken in separate blocks of time rather than in one continuous period of time, including leaves of an hour or more to several weeks for such purposes as medical appointments and therapy.

LAYOFF: An involuntary separation of an incumbent in the classified service either by reason of a reduction of force due to lack of work or funds or by reason of abolishment of the position, excluding separations due to termination of temporary or project at will appointments.

LEAVE OF ABSENCE WITH PAY: A period of absence from duty, granted by the elected official or department head responsible for the department or office, with the concurrence of the board of county commissioners, during which the employee will be eompensated.

Appendix A

LEAVE OF ABSENCE WITHOUT PAY:	A period of absence from duty with the approval of the appointing authority during which time the employee will not be compensated.
MONTH OF SERVICE:	Any calendar month in which an employee was employed and received compensation for at least fifteen (15) calendar days, including regular days off, vacation, sick leave and holidays.
OFFICIAL DUTIES:	Those things required to be done by law or by direction of the employee's supervisor, those matters directly involving the county or the county's interests, or those situations where the validity of the county's procedures are directly in issue.
OVERTIME, CASUAL:	Overtime of an irregular nature, not expected to continue for more than a day or two (2). Casual overtime occurs at infrequent intervals and is of such a nature that it cannot be accurately predicted for any given period of time.

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OVERTIME, REGULARLY SCHEDULED:	Overtime that occurs at regular intervals and which can be accurately predicted for a given period of time.
OVERTIME WORKED:	Compensable time worked in excess of forty (40) hours in a workweek consisting of one hundred sixty eight (168) consecutive hours, unless the employee is a participant in an apprenticeship training program approved by the United States department of labor, bureau of apprenticeship and training, in which case, the apprenticeship agreement shall control. Exception: The elected officials in charge of fire protection and law enforcement may choose to adopt the "7K" exemption to the federal fair labor standards act - as that provision may be amended from time to time - for determining overtime compensation.
PAY BAND:	The pay range allocated to a job class by the board from a compensation schedule stating the minimum and maximum rate

of pay allowed an employee performing a job in that particular class.

PERFORMANCE EVALUATION: The systematic evaluation of an employee with respect to performance on the job and potential for development.

PERMANENT POSITION: A position in which the employment of one person is required for more than eight (8) months in any twelve (12) month period. Contract employees and employees hired under special grants such as those provided for by the job training partnership act shall not be considered permanent employees.

POSITION: A group of duties and responsibilities legally assigned or delegated by one or more appointing authorities and requiring the employment of at least one person.

PROMOTION: The advancement of an employee from a position which he or she occupies in one class to a position in another class having a higher entrance salary.

Appendix A

QUALIFIED INDIVIDUAL WITH A DISABILITY:	An individual with disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such person holds or desires.
REALLOCATION:	A change of a class from the pay band to which it is allocated in the compensation schedule to another pay band of either higher or lower entrance salary.
RECLASSIFICATION:	A change of a position from the class to which it is assigned to another class due to changes in the duties and responsibilities of the affected position. A reclassification may or may not include an increase or decrease in pay.
REDUCED LEAVE SCHEDULE:	Work schedule, relating to family and medical leave, which reduces the usual number of work hours per workday or workweek for such purposes as recovering from a serious health condition from which an employee is not strong nor healthy enough to work full time.

REINSTATEMENT:	The reappointment to classified service, per section 1-7D-7 of this chapter, of a former classified employee who had attained permanent status.
RESIGNATION:	The termination of employment of an employee made at the request of the employee excluding retirement.
RETIREMENT:	The termination of an employee, voluntarily or otherwise, under provisions of the public employee retirement system.
SERIOUS HEALTH CONDITION:	An illness, injury, impairment or physical or mental condition that involves: a) any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice or residential medical care facility; b) any period of incapacity requiring absence from work, school or other regular daily activities, of more than three (3) calendar days, that also involves continuing treatment by, or under the supervision of, a health care provider; or c) continuing treatment by, or under the

supervision of, a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three (3) calendar days; or for prenatal care.

SEXUAL HARASSMENT: Unwelcome sexual advances, requests for sexual favors, other verbal comments and/or physical conduct of a sexual nature when:

A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

C. Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

SICK LEAVE: A period of exemption from work granted to employees during which time said

	employees shall be compensated when caused by personal illness, injury, or other causes as outlined in sections 1-71-3 and 1-71-4 of this chapter.
SUSPENSION:	An enforced period of absence, with or without pay, for disciplinary purposes or pending investigation of charges made against an employee.
THREE LEVEL RATING SYSTEM:	A performance evaluation rating system which uses three (3) levels for rating employees' job-related performance, such as "Exceeds Standards", "Meets Standards", "Does Not Meet Standards", or the equivalent.
TRANSFER:	A change of an employee from one position to another class in the same pay band for which the employee qualifies, or a change of work location or organizational unit.
VACATION LEAVE:	A period of exemption from work granted to employees during which time said employees shall be compensated. The terms shall not include

compensatory time for overtime work.

YEAR: A fiscal year from the date of October 1 through September 30 of the following calendar year. (Ord. 383, 10-12-1999; amd. Ord. 400, 10-24-2000; amd. Ord. 401, 10-31-2000)

CHAPTER 7

COUNTY PERSONNEL SYSTEM

ARTICLE C. COMPENSATION AND CLASSIFICATION[1]

SECTION:

1-7C- 1: Compensation
1-7C- 2: Compensation Plan Review
1-7C- 3: Operation Of Compensation Plan
1-7C- 4: Reclassification
1-7C- 5: Promotions
1-7C- 6: Reduction Of Salary
1-7C- 7: Overtime Compensation
1-7C- 8: Temporary And Part-Time Employees
1-7C- 9: Exemption
1-7C-10: Workers' Compensation Supplemental Pay And Benefits

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[1] Prior ordinance history: Ord. 110, 12-10-1980; Ord., 4-25-1984; 1984 Code; Ord. 110-18-85,1-21-1985; Ord. 141,8-29-1985; Ord. 146, 1-22-1986; Ord. 149,4-2-1986; Ord. 179,8-24-1987; Ord. 182,9-24-1987; Ord. 219, 5-3-1990; Ord. 231, 2-7-1991; Ord. 278, 9-13-1994; Ord. 292, 5-24-1995; Ord. 340, 9-2-1997.

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1-7C-1: **COMPENSATION:** Notwithstanding any other Ada County code provisions, department policy provisions, handbook provisions, letters, oral representations, or any other representations to the contrary, all compensation provided to all Ada County employees shall be in compliance with applicable provisions of the fair labor standards act (FLSA)[2]. (Ord. 383, 10-12-1999)

1-7C-2: **COMPENSATION PLAN REVIEW:** (Rep. by Ord. 179, 8-24-1987)

1-7C-3: **OPERATION OF COMPENSATION PLAN:**

A. Rate Of Pay Determination: Classified county employees shall be paid neither less than the minimum nor more than the maximum of the pay band for the class as established in any county compensation schedule approved by the board. However, an employee's rate of pay may exceed the maximum of the pay band for his or her class in exceptional situations, as deemed appropriate by the board. An employee's rate of pay may be less than the minimum of the pay band for his or her class, when the minimum salary for the pay band has been increased during the employee's incumbency, and: 1) the employee's job performance does not warrant a salary or merit increase, 2) the employee is on disciplinary review, or 3) the employee is on leave without pay. Conversely, an employee's rate

[2] 29 USC § 207 and 29 CFR.

of pay may exceed the maximum of the salary range for his or her class when an employee's position is reclassified to a class allocated to a different pay band, or when an employee's class is reallocated to a different pay band, after which time the individual shall be permitted to continue at his or her present rate of pay during the period of incumbency (except in the event of general service-wide reductions), but shall not be entitled to a pay increase.

B. Wage And Salary Rates: All monthly rates of pay authorized are for full-time employment. Payment for part-time service shall be paid at the scheduled hourly rate.

C. Pay Periods: The county will not make pay advances to its employees. Salaried employees and part-time employees working the same number of hours every month will receive their paychecks the last working day of each month, with the exception of any emergency situation as determined by the elected official and as accepted by the board of county commissioners. Pay periods for part-time employees working a varying number of hours every month will be from the twenty first through the twentieth of the following month, and they will receive their paychecks the last working day of each month.

D. Entrance Rates Of Pay: The entrance rate of pay for new appointees in any class shall be the minimum rate of pay of the pay band of that class except as provided herein. When necessary to recruit, upon oral or written request by the appropriate elected official or department head to the board, and when supported by

acceptable reasons, a higher rate of pay may be authorized provided that:

1. Requests for appointments at a higher rate of pay are approved by the board prior to the actual appointment of the affected employee; and

2. The appointee's qualifications materially exceed those of other applicants.

E. Advancements: New employees may receive an inband increase or merit increase after successfully completing their entrance probationary period or at any time prior to that date provided the advancement is recommended by his or her supervising elected official and is approved by the board. Each employee may be eligible for a merit increase on an annual basis upon certification of satisfactory performance by his or her immediate supervisor on a notice of personnel action form approved by the board. (Ord. 383, 10-12-1999)

1-7C-4: **RECLASSIFICATION:**

A. Should the duties and responsibilities of a position change significantly, the elected official and/or department head shall submit a request for reclassification with a position description. The request will be reviewed and recommendation made and forwarded to the board of county commissioners for final approval.

B. If a circumstance should arise requiring the abolition of a certain position(s), job security may be maintained by

one of the following, at the discretion of the elected official responsible for said position(s):

1. The employee may be returned to a previous position;

2. The employee may be promoted based on merit, qualifications and a position being available;

3. The employee may be transferred to another department to fill a position of equal pay;

4. The employee may be reclassified to a lower position in which he or she holds status.

If none of the above alternatives are available, the employee may be dismissed or laid off. (Ord. 383,10-12-1999)

1-7C-5: **PROMOTIONS:**

A. An employee receiving a promotion shall be paid at a rate of pay in the pay band of the class into which they are promoted. The maximum pay adjustment for promotions shall be limited to the percentage difference between the entrance level of pay of the employee's pay band before promotion and the entrance level of pay of the employee's pay band after promotion. Each department and office shall ensure that all employees affected by promotions are treated uniformly in terms of pay increases.

B. At the discretion of the department head or elected official, employees may be required to fill a position in

a class with a higher pay band on a temporary or short-term basis. Such temporary or short-term assignment does not necessarily constitute authority for additional pay increases until the position is held more than forty five (45) consecutive calendar days. Should the employee hold the position beyond forty five (45) consecutive calendar days, he or she shall receive the minimum rate of pay of the pay band to which the employee is assigned on a temporary or short-term basis, or receive a five percent (5%) increase, whichever is greater. The salary increase shall be retroactive to the day of assignment, and shall continue until the position is filled with an employee on permanent assignment. (Ord. 383, 10-12-1999; amd. Ord. 411, 10-3-2000)

1-7C-6: **REDUCTION OF SALARY:**

A. The rate of pay of an employee receiving more than the minimum rate of pay of the pay band for his or her class may be reduced to a rate of pay of not less than the minimum for the pay band by the elected official responsible for said position, for disciplinary reasons enumerated in article G of this chapter.

B. The rate of pay of an employee may be reduced by the responsible elected official, with the consent of the board, for administrative reasons such as:

Overpayments made due to administrative or other errors;

Voluntary or involuntary reductions in work hours;

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Voluntary and nondisciplinary-involuntary demotions;

Shortage of funds or appropriations;

Reallocations of classes;

Ineligibility for shift differential pay; and/or

For other good and sufficient reasons as determined by the responsible elected official with the consent of the board. (Ord. 383, 10-12-1999)

1-7C-7: **OVERTIME COMPENSATION:**

A. Ada County embraces the general policy that overtime will be kept to a minimum within a department.

B. Classified employees who fall within the definition of an executive, administrative or professional employee shall be ineligible for cash compensation for overtime worked, unless such compensation is authorized by the board of county commissioners and supervising elected official for overtime accumulated during usual or emergency situations. Such classified employees may be authorized to take compensatory time off for overtime worked with the consent of their supervising elected official and/or department head. Compensatory time off, if authorized, shall be allowed on an hour-for-hour basis, shall not be transferable and shall be forfeited at the time of transfer to another department or upon separation from county service.

C. Classified employees who do not meet the definition of an "executive", "administrative" or "professional

employee" shall be paid cash compensation for overtime worked at the rate of one and one-half (1 ½) times the hourly rate of that employee. Compensatory time off may be authorized in lieu of cash compensation at the discretion of the elected official and/or department head, upon reaching an agreement therefor, in advance, with the employee. Compensatory time off, when authorized, shall be earned and allowed on a one and one-half (1 ½) for one hour basis.

D. Cash compensation for overtime hours worked, when paid, shall be paid at one and one-half (1 ½) times the hourly rate of that employee's salary or wage, except for those employees whose positions fall within the definitions of executive, administrative or professional.

E. All overtime to be compensated in cash payment will be paid within the pay period earned and accrued, unless it is earned after the fifteenth of a calendar month, at which time the cash compensation will be paid the following month.

F. Compensatory time off accrued by classified employees, if authorized, need not be used within the pay period in which it is earned and accrued. However, such compensatory time off shall not be allowed to accrue beyond a total of forty (40) hours, with the exception of the sheriff's office, the court clerk's division of the clerk-auditor-recorder's office, the juvenile court services department and the emergency medical services department, whose compensatory time off shall not be allowed to accrue beyond a total of sixty (60) hours. Any overtime accrued above this maximum shall be paid in cash. Provided, however,

those classified employees who do not fall within the definitions of "professional", "administrative" or "executive" and who have compensatory time off which is unused at the date of transfer to another department in county service, or the date of separation from county employment, shall receive cash compensation for accrued compensatory time off at the rate of one and one-half (1 ½) to one for overtime hours worked.

G. It will be the responsibility of the elected official or delegated department head to maintain an overtime roster and to record the amount of regular time and authorized overtime worked by each individual employee. Overtime sheets will be turned into the payroll office not later than the fifteenth of each month. Hours to be paid at the overtime rate of one and one-half (1 ½) to one will be totaled and clearly marked. Overtime hours which have been taken as compensatory time off will be totaled and clearly marked. (Ord. 383, 10-12-1999)

1-7C-8: **TEMPORARY AND PART-TIME EMPLOYEES:**

A. Repealed.

B. Permanent Part-Time Employees: Individuals may be hired on a part-time basis, which means the employee works less than forty (40) hours in a period of one hundred sixty eight (168) consecutive hours.

Employees working in excess of twenty (20) hours per week, and for more than five (5) consecutive months,

will be required to pay contributions to the Idaho public employees retirement system in accordance with title 59, chapter 13, Idaho Code.

C. Hourly Rate; Exceptions: The hourly rate paid shall be at the minimum rate for the classification to which the employee is assigned. The only exceptions are for persons with outstanding qualifications, experience or length of service of two (2) years or more with the county. (Ord. 383, 10-12-1999)

1-7C-9: **EXEMPTION:** (Rep. by Ord. 141,8-29-1985)

1-7C-10: **WORKERS' COMPENSATION SUPPLEMENTAL PAY AND BENEFITS:**

A. Emergency services personnel who are on duty and performing their official county duties which relate to accomplishing or supervising the accomplishment of their respective departments' primary mission, and who are injured on the job, as provided in subsection C of this section, shall be placed on leave of absence with pay and shall be paid the difference between the employee's regular gross monthly salary, including regularly earned overtime for emergency medical services field personnel, at the date of injury, and the employee's workers' compensation insurance benefits for that pay period.

B. Other county employees who are on duty and who are injured on the job, as provided in subsection C of this section, shall be placed on leave of absence with pay and shall be paid the difference between the employee's regular gross monthly salary, at the date of injury, and

the employee's workers' compensation insurance benefits for that pay period.

C. Injuries for which workers' compensation supplemental pay and benefits shall be given include those which are sustained when emergency services personnel and other county employees, while in the course and scope of their employment duties:

1. Place themselves in significant danger or at a significant risk of danger; or

2. Perform heroic acts to protect or save human life and/or personal property.

D. Employees may make application for workers' compensation supplemental pay and benefits by submitting to their supervisors a copy of their workers' compensation benefit voucher. The workers' compensation supplemental pay and benefits shall not affect settlement between such employees and the Idaho industrial commission regarding other disability benefits.

E. Upon application, the board shall determine if an employee's injury meets the required standards, and shall make the final determination of eligibility for workers' compensation supplemental pay and benefits. A denial of benefits may be appealed through the grievance procedure provided in section 1-7H-1 of this chapter.

F. In accordance with section 1-7K-3 of this chapter, employees for whom workers' compensation

supplemental pay has been approved shall be given fringe benefits including county-paid medical, dental, vision, life and disability insurance, retirement, vacation and sick leave accrual, and salary increases.

G. Workers' compensation supplemental pay and benefits shall terminate when the first of any of the following occurs:

1. The employee is released to return to duty as approved by the Idaho industrial commission;

2. The time period ends, as set by the Idaho industrial commission, for receipt of workers' compensation benefits, including partial or total disability; or

3. The employment relationship between the county and the employee receiving such supplemental pay and benefits is terminated by either party. (Ord. 383,10-12-1999)

CHAPTER 7

COUNTY PERSONNEL SYSTEM

ARTICLE D. APPOINTMENTS[1]

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[1] Prior ordinance history: Ord. 110, 12-10-1980; Ord. 110-2-83, 9-14-1983; Ord., 5-9-1984; Ord. 157,11-12-1986; Ord. 179,8-24-1987; Ord. 182,9-24-1987; Ord. 204, 6-19-1989; Ord., 5-3-1990; Ord. 219, 5-3-1990; Ord. 278,9-13-1994.

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SECTION:

1-7D-1: General
1-7D-2: Announcement Of Vacancies
1-7D-3: Examinations
1-7D-4: Applications Kept
1-7D-5: Selection Procedures
1-7D-6: Veterans Preference
1-7D-7: Reinstatement

1-7D-1: **GENERAL:**

A. All positions in the county departments shall be filled on the basis of merit and fitness without regard to race, color, religion, origin, sex, age, political affiliation or disability.

B. The county personnel department shall be notified of any position vacancy or new position in any department.

C. Whenever practical, vacancies may be filled by qualified applicants within the county, in the department where the vacancy occurs, without announcing the vacancies as provided for in section 1-7D-2 of this article.

D. Vacancies may be filled at the discretion of the appropriate elected official, department head, or appointing authority by qualified applicants from other county departments without having conducted recruitment activities either within the department in which the vacancies exist or with the general public and without announcing the vacancies as provided for in

section 1-7D-2 of this article provided, however, the county personnel department shall distribute an announcement of such vacancy to all county departments which shall be posted in conspicuous places.

Elected officials, department heads, and appointing authorities are not obligated to promote or transfer a qualified applicant into a vacant position in their department after having conducted either or both intradepartmental and/or interdepartmental recruitment activity. The elected official, department head, and appointing authority may conduct, at their discretion, other recruitment activities in an attempt to fill the vacant position. (Ord. 383,10-12-1999)

1- 7D-2: **ANNOUNCEMENT OF VACANCIES:** Upon notification of a vacancy, the personnel department shall distribute an announcement of such vacancy to all county departments which shall be posted in conspicuous places. Additionally, the announcement shall be distributed to locations throughout the county and other recruitment activity conducted by the personnel department. Such announcements need not be distributed, if an announcement of a vacant position in the same class and in the same office or department was: a) distributed and applications were taken within the previous thirty (30) days or b) distributed with an "indefinite" closing date and applications were taken within the previous ninety (90) days. For the purposes of this article only, employees of the fourth judicial district court and employees serving as deputy clerks for the clerk of the court are in the same office or department. The announcement shall include, but not be limited to:

A. Position classification title;

B Salary range and/or proposed salary;

C. Description of the position and listing of typical duties;

D Minimum qualifications; and

E. Department where the vacancy occurs. (Ord. 383, 10-12-1999)

1-7D-3: **EXAMINATIONS:**

A. Recruiting efforts will be planned and carried out in a manner that assures open competition. Certification procedures will be recommended through the personnel department to assist all elected officials to review and give equitable consideration to an appropriate number of eligibles based on whatever ranking system is used on the list when making a selection for appointment to county service. Ranking will be job related and will maximize validity, reliability and objectivity.

B. Competition for appropriate positions may be limited to facilitate employment of those with a substantial physical or mental impairment, the economically disadvantaged or participants in employment or rehabilitation programs authorized by congress or related programs authorized by the state.

C. In those occasional instances where there is evidence that open or limited competition is not practical, noncompetitive appointments may be made.

D. Job-related minimum requirements for entrance to a class will be established wherever they are practical. Such minimum requirements should be met by all successful candidates examined, appointed or promoted; provided, however, the county reserves the right, at the discretion of the appropriate appointing authority, to waive any of the minimum qualifications for those candidates whose general or specific qualifications would otherwise qualify the applicant for the position or lead the appointing authority to believe the applicant is capable of performing the assigned duties and fulfilling the assigned responsibilities.

E. Where it is necessary to measure the important skills, knowledge and abilities needed for entry to a job, more than one selection procedure should be used. In those cases, the human resources department may assist the elected official and/or department head in developing content-related examinations. Such examinations may be administered to all qualified applicants in order to determine their relative qualifications.

F. The selection procedure will be based on relative ability, knowledge, and skills of eligible applicants; on fair treatment without regard to an applicant's race, color, religion, sex, national origin, political affiliation, age, handicap, or other nonmerit factors except where provided for by federal law; on the equitable consideration of all eligible applicants. (Ord. 383, 10-12-1999)

1-7D-4: **APPLICATIONS KEPT:** The human resources department shall keep a list of qualified applicants in the various classified positions which

frequently experience vacancies. (Ord. 383, 10-12-1999)

1-7D-5: **SELECTION PROCEDURES:**

A. No employee shall be placed on the payroll or allowed to report for work unless the elected official and/or department head has hired the employee in conformance with these rules.

B. No classified employee shall be appointed to a class within a department without a position for such class being approved by the board. An employee control number shall be assigned to the employee by the county payroll section. (Ord. 383, 10-12-1999)

1-7D-6: **VETERANS PREFERENCE:**

A. When filling a position to which this chapter applies, the elected official or department head shall, in accordance with Idaho Code section 65-502, give preference to war veterans, as defined in Idaho Code section 65-509, who served on active duty in the armed forces of the United States for a period of more than one hundred eighty (180) days, or whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty, and who were discharged under honorable conditions. Applicants must be residents of the state of Idaho when the application for work or employment is made in order to claim such preference. This preference applies to initial appointment only.

B. Disabled war veterans, as defined in Idaho Code section 65-507, shall be given preference in employment, provided that such disability does not prevent satisfactory performance of the duties of the position. (Ord. 383,10-12-1999)

1-70-7: **REINSTATEMENT:**

A. Permanent, including part-time, employees who have resigned while in good standing, or been demoted for nondisciplinary reasons, may at the discretion of the supervising elected official be eligible for reinstatement to a vacant position in the same, substantially similar, or lesser classification for which they held permanent status at the time of resignation or demotion. Employees must meet, at the time of reinstatement, the current qualifications for the class.

B. The eligibility period for reinstatement shall not exceed one year from the date of resignation or demotion.

C. Employees who have been reinstated shall be paid at the current pay band for the class; however, the specific rate of pay and number of work hours shall be determined by the elected official or department head.

D. Reinstated employees shall be permanent employees and shall be eligible for all benefits which accrue to permanent employees with the same number of work hours, and shall not be subject to any waiting periods for benefits, with the exception of waiting periods for preexisting and/or chronic conditions as outlined in fringe benefits booklets, as they may be amended from time to time. Reinstated employees shall have the same

accrual rates for vacation leave as they had at the time of resignation. Reinstated employees shall be credited with the same number of hours' sick leave as they had at the time of resignation, with a maximum credit allowance of forty eight (48) hours.

E. Reinstatement shall be allowed only if it will not interfere with such rehiring as may be required by article F of this chapter, "Layoff". (Ord. 383,10-12-1999)

CHAPTER 7

COUNTY PERSONNEL SYSTEM

ARTICLE E. PROBATIONARY PERIOD[1]

SECTION:

1-7E-1: General
1-7E-2: Certification To Permanent Appointment
1-7E-3: Unsatisfactory Service

1-7E-1: GENERAL:

A. The probationary period for the probationary appointment of an employee to a position in the classified service is normally six (6) months with the

[1] Prior ordinance history: Ord. 110-12-84, 8-22-1984; Ord. 146, 1-22-1986; Ord. 179, 8-24-1987; Ord. 204, 6-19-1989; Ord. 219, 5-3-1990; Ord. 278, 9-13-1994.

exception of EMS field personnel in the emergency medical services department and all classified employees in the office of the Ada County sheriff, in which cases, the customary probationary period is normally twelve (12) months. The probationary period shall be continuous and shall serve as a working test to evaluate the work performance and suitability of employees newly appointed or promoted.

Prior to the completion of any probationary period, the elected official in charge of the department may, at his or her discretion, extend the probationary period for an additional time period, not to exceed six (6) months, to provide the employee an additional opportunity to demonstrate an acceptable level of work performance and suitability for the job assignment. The elected official shall notify the probationary employee of the extension of the probationary period, in writing, prior to the expiration of the probationary period. A brief statement explaining the reasons for extension of the probation shall be included in the written notice. A copy of this written notice shall be sent to the Ada County personnel director, and a copy shall be retained in the employee's department personnel file.

B. There shall be three (3) types of probationary periods for employees and positions governed by the classified service:

1. Entrance Probation: Probationary service by an employee upon initial appointment to a position in the classified service or upon transfer to a different position:

a. Of the same class, in another department or office; or

b. Of a different class with the same or a lower entrance salary or pay band, in the same or another department or office.

2. Intradepartmental Promotional Probation: Probational service by an employee in the classified service upon promotion within the Ada County department or agency in which they are then working.

3. Interdepartmental Promotional Probation: Probational service by employees in the classified service upon promotion from one Ada County department or agency to another Ada County department or agency. (Ord. 383,10-12-1999)

1-7E-2: **CERTIFICATION TO PERMANENT APPOINTMENT:**

A. Upon written certification by the responsible elected official or department head to the personnel department of completion of the appropriate probationary period, the employee shall be granted permanent appointment.

B. Such permanent appointment shall be effective from the first day of the calendar month following the completion of the probationary period. (Ord. 383,10-12-1999)

1-7E-3: **UNSATISFACTORY SERVICE:**

Appendix A

A. An employee on entrance probation may be disciplined or dismissed at any time during the probationary period for any reason deemed sufficient by the elected official. Employees on entrance probation are not entitled to the grievance and appeal rights given permanent classified employees by this chapter. The elected official and/or the department head may effect a dismissal, by submission of written notice of personnel action to the employee, the county personnel department, and the county clerk's office. The employee shall be offered the option of resigning.

B. An employee on interdepartmental promotional probation shall, for all purposes of this chapter be treated no differently than an employee on entrance probation except as otherwise specifically stated.

C. An employee on intradepartmental promotional probation, who fails to render satisfactory service, shall be returned to his or her former position and pay rate, or the equivalent thereof. The time spent in the higher class shall not count towards the next inband increase of the employee. (Ord. 383,10-12-1999)

CHAPTER 7

COUNTY PERSONNEL SYSTEM

ARTICLE F. LAYOFF[1]

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[1] Prior ordinance history: Ord. 110, 12-10-1980; Ord., 5-9-1984; Ord. 157, 11-12-1986; Ord. 182,9-24-1987; Ord. 219, 5-3-1990; Ord. 239, 5-16-1991.

Appendix A

SECTION:

1-7F-1: General
1-7F-2: Order Of Layoff And Retention Points
1-7F-3: Notification And Grievance
1-7F-4: Departmental And Divisional Layoff Registers
1-7F-5: Effective Date

1-7F-1: **GENERAL:**

A. An elected official may layoff an employee in the classified service whenever the elected official deems it necessary because of:

1. A direct or indirect shortage of or reduction in funds or work;

2. Reorganization;

3. The abolishment of one or more positions;

4. Efforts to economize and/or increase efficiency;

5. Nepotism prohibitions; or

6. Any other good and sufficient reason(s) as determined by the responsible elected official with the consent of the board.

B. A demotion or downward reclassification, voluntary or involuntary, disciplinary or nondisciplinary, shall not constitute a layoff.

C. Elected officials, with the consent of the board, may exempt from layoff certain employees due to their specialized training, qualifications or assignments. (Ord. 383, 10-12-1999)

1- 7F-2: **ORDER OF LAYOFF AND RETENTION POINTS:**

A. Layoffs shall be by the class of position, shall not depend on the class of the incumbent, and may be limited to a department or division.

B. If the department or division in which a layoff is to occur has a vacant, permanent position of the same class as that affected by the layoff, the employee in the position identified to be vacated or abolished shall be transferred into the vacant position.

C. The order of layoff within the affected class shall be by type of appointment in the following order: temporary; emergency; entry probation; interdepartmental promotional probation; intradepartmental promotional probation; and permanent. An employee on an acting appointment shall be returned to his or her permanent position and class prior to the initiation of layoff procedures within the department or division. Employees on leave, whether with or without pay, will be included in the layoff.

D. The order of layoff within the type of appointment shall be by retention points. Layoffs shall commence with the employee having the fewest retention points. If the employee in the position identified to be vacated or abolished has more retention points than other

employees within the type of appointment and affected class, that employee will be transferred to the position held by the employee with the fewest retention points. If employees have the same number of retention points, identification of employees to be laid off shall be by random selection. Retention points shall be calculated using the following method:

1. Two (2) retention points shall be awarded for each month of continuous county service, regardless of department or division, except as excluded below. Eligible war veterans as defined in title 65, chapter 5, Idaho Code, as it may be amended from time to time, shall be awarded, for purposes of computing retention points only, the equivalent of two (?) years' additional creditable county service.

2. If official, written performance evaluations, signed by the responsible department or division head, or supervisor were given to evaluate an employee's performance during the employee's continuous service, except for periods as excluded below, additional retention points shall be added to or subtracted from the retention point total according to the following formulas:

FIVE LEVEL RATING SYSTEM

Retention Points Per Month To Be Added To Or Subtracted For Each Month Evaluated	Overall Evaluation Rating
+1	Outstanding or equivalent

Appendix A

+ 1	Very good or equivalent
0	Good or equivalent
-1	Marginal or equivalent
-1	Unsatisfactory or equivalent

THREE LEVEL RATING SYSTEM

Retention Points Per Month To Be Added To Or Subtracted For Each Month Evaluated	Overall Evaluation Rating
+1	Exceeds standards or equivalent
0	Meets standards or equivalent
-1	Does not meet standards or equivalent

3. No retention points shall be awarded for the following excluded periods:

a. The last three (3) months prior to layoff;

b. Periods during which an employee was on leave of absence without pay and/or suspension without pay;

c. Periods of county service ending with a break in service; and

d. County service as a temporary employee. (Ord. 383, 10-12-1999)

1-7F-3: **NOTIFICATION AND GRIEVANCE:**

A. Employees to be laid off shall be notified in writing of the layoff, the reasons therefor, and the effective date thereof.

B. Layoffs shall be grievable in accordance with article H of this chapter. Employees shall not be entitled to any pay beyond that due on the effective date of the layoff. If the grievance process continues beyond the effective date for the layoff, no interim pay shall be paid to the employee; providing, however, if the grievance is upheld, payment shall be made for all of the wages or salary lost. (Ord. 383, 10-12-1999)

1-7F-4: **DEPARTMENTAL AND DIVISIONAL LAYOFF REGISTERS:**

A. The names of classified employees laid off shall be placed on a layoff register by department or division, by class, by type of appointment, and by retention points, respectively. Employees serving in temporary or emergency appointments shall have no reemployment rights under this article, nor shall they be placed on the layoff register for their department or division.

B. Employees on the layoff register for the department or division shall be offered reemployment to a position in the class from which laid off in the department or

division from which laid off before the position may be filled by any other person.

C. Employees on a layoff register shall be offered reemployment according to the greatest number of retention points within the type of appointment. The order of reemployment by type of appointment shall be: permanent, intradepartmental promotional probation; interdepartmental promotional probation; and entry probation. If two (2) or more employees have the same number of retention points within a particular type of appointment, rehiring order shall be determined by random selection.

D. Reemployment rights under this article shall exist for six (6) months from the date of layoff or until the former employee declines two (2) different offers of reemployment, whichever occurs sooner.

E. Former employees offered reemployment under this article must report for work within seven (7) calendar days after notification of the reemployment offer.

F. Employees reemployed under this article shall be appointed with the same status they held at the time of layoff.

G. Rate of pay, benefits, number of work hours, and type of appointment for employees reemployed under this article shall be as follows:

1. Pay band shall be the current pay band for the class; however, the specific rate of pay shall be determined by the respective elected official or department head;

2. Employees reemployed under this article shall receive all fringe benefits which may be provided to permanent employees with the same number of work hours, subject to all waiting period requirements as outlined in fringe benefits booklets as they may be amended from time to time. Employees reemployed under this article shall have the same accrual rates for vacation leave as they had at the time of layoff and shall be credited with the same number of hours of sick leave as they had at the time of layoff, with a maximum credit allowance of forty eight (48) hours; and

3. The number of work hours for employees being reemployed under this article shall be determined by the respective elected official or department head. (Ord. 383, 10-12-1999)

1-7F-5: **EFFECTIVE DATE:** This article shall take effect October 1 1986. (Ord. 383, 10-12-1999)

CHAPTER 7

COUNTY PERSONNEL SYSTEM

ARTICLE G. DISCIPLINE[1]

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[1] Prior ordinance history: Ord. 110, 12-10-1980; Ord. 110-2-83,9-14-1983; Ord. 110-18-85, 1-21-1985; Ord. 141, 8-29-1985; Ord. 163, 12-17-1986; Ord. 179, 8-24-1987; Ord. 180, 9-10-1987; Ord. 204, 6-19-1989; Ord. 219, 5-3-1990; Ord. 224, 7-9-1990; Ord. 273, 3-24-1994; Ord. 278, 9-13-1994; Ord. 288, 3-2-1995.

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SECTION:

1- 7G-1: Policy

1-7G-2: Disciplinary Procedures For Other Than Dismissals, Suspensions, Demotions Or Inband Reductions In Pay

1-7G-3: Dismissals, Suspensions, Demotions And Inband Reductions In Pay

1-7G-1: **POLICY:**

A. Employees in the classified service shall be subject to disciplinary action commensurate with the severity of the offense or accumulation of offenses.

B. Whenever possible, sufficient time for improvement should precede disciplinary action pursuant to this article.

C. Only permanent employees in the classified system shall be entitled to any grievance and/or appeal rights granted by this article. (Ord. 383,10-12-1999)

1- 7G-2: **DISCIPLINARY PROCEDURES FOR OTHER THAN DISMISSALS, SUSPENSIONS, DEMOTIONS OR INBAND REDUCTIONS IN PAY:**

A. Oral Warning: When grounds for disciplinary action exist, and the supervisor or elected official determines that more severe action is not immediately necessary, the supervisor or elected official may orally

communicate to the employee the deficiency or grounds for discipline. Documentation of the warning may be placed in the departmental personnel file kept by the elected official responsible for said employee.

B. Written Reprimand: An elected official or executive employee delegated the responsibility for personnel. actions may reprimand an employee for cause, as denominated in subsection 1-7G-3A of this article. Such reprimand shall be in writing and shall contain a short statement of the misconduct, inadequacies or other grounds for discipline. The executive employee or elected official shall discuss the problem(s) with the employee, at which time the employee shall acknowledge that he or she has been informed of the executive employee or elected official's reprimand by his or her signature on said reprimand. A copy signed by the executive employee or elected official shall be given to the employee and a copy shall be delivered to the Ada County personnel officer.

C. Disciplinary Review: An elected official may place an employee on disciplinary review for a period of time not to exceed six (6) months.

1. An employee shall be notified in writing of his or her placement on disciplinary review, the reasons therefor, and the beginning and ending dates for the review. A copy of the notice shall be sent to the Ada County personnel officer, and a copy retained in the employee's departmental or divisional personnel file.

2. The disciplinary review period shall automatically end on the date listed in the written notification to the employee, unless terminated sooner in writing.

3. While on disciplinary review, an employee shall continue to earn and accrue sick leave and vacation leave, and may use both sick leave and vacation leave. An employee shall not be eligible for merit raises while on disciplinary review.

D. Other: When grounds for disciplinary action exist, and the supervisor or elected official determines that the above disciplinary actions are inappropriate, the supervisor or elected official may administer other nonproperty right disciplinary actions other than those listed above.

E. Grievance And Appeal Procedures: A permanent employee who is dissatisfied with a disciplinary action, other than discipline in the form of dismissal, suspension, demotion and/or inband reduction in pay, shall utilize the grievance and appeal procedures contained in article H of this chapter. (Ord. 383, 1Q-12-1999)

1-7G-3: **DISMISSALS, SUSPENSIONS, DEMOTIONS AND INBAND REDUCTIONS IN PAY:** Provisions of section 1-7G-2 of this article are not a prerequisite to action under this section.

A. Employees in classified service with probationary status may be dismissed, suspended, demoted and/or administered an inband reduction in pay in accordance

with article E of this chapter. Any employee in classified service with permanent status may be dismissed, suspended, demoted and/or administered an inband reduction in pay for good cause, which shall include, but not be limited to, anyone or a combination of the following acts or omissions which occur during the period of the employee's employment with Ada County:

1. Failure to perform the duties and carry out the obligations imposed by the federal or state constitutions; federal or state statutes, rules or regulations; county ordinances; or rules and policies and procedures of his or her department or office.

2. Inefficiency, incompetency or negligence in the performance of his or her duties which interferes with the proper operation of his or her department or office, or failure to meet work standards for his or her job.

3. Failure to perform the essential functions of his or her employment position for any reason after the county has made reasonable accommodations as required by law.

4. Refusal to accept a reasonable and proper assignment from an authorized supervisor, or failure to perform assigned tasks within required time limits.

5. Insubordination or conduct detrimental to good order and discipline in the department or office, or conduct unbecoming of a county employee.

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6. Being under the influence of any form of drug, alcohol or controlled substance, without a prescription or as authorized by law, while on duty.

7. Careless, negligent or improper use of, or unlawful conversion of, county property, equipment or funds.

8. Conviction of misconduct in office, or conviction of a felony.

9. Acceptance of gifts in exchange for influence or favors given in an official capacity.

10. Abuse or improper use of sick leave privileges.

11. Failure to report for duty at the assigned time and place.

12. Unauthorized disclosure of information from official, nonpublic records or nonpublic information otherwise obtained in the course and scope of the employee's job.

13. Absence without proper authorization of leave.

14. Misstatement or deception in application for employment.

15. Failure to obtain or maintain a current license or certificate lawfully required as a condition of performance of duties.

16. Political activity which is disruptive of the employee's mission and duties or that of his or her department or office.

17. Use of any influence which violates the principle of this merit system in an attempt to secure a promotion or other privileges for individual advantage or gain.

18. Violations of the standards of conduct as set forth in article L of this chapter.

19. Violation of Ada County's harassment and discrimination policy or retaliation against another employee for filing a report of harassment or discrimination.

20. Knowingly making a material misstatement or a materially misleading statement in an official report.

21. Making or repeating a material misstatement or materially misleading statement about a county employee or official with knowledge that the statement is untrue or misleading or making or repeating a material misstatement or materially misleading statement about a county employee or official with reckless disregard as to whether the statement is untrue or misleading.

22. Violating the family and medical leave act with respect to interference, discrimination and retaliation as outlined in article K of this chapter.

23. Violation of federal or state copyright laws regulating, but not limited to, the unauthorized copying

or distribution ("pirating") of personal computer (PC) software or data, and/or violation of any personal computer (PC) software licensing agreement.

24. Impeding, interfering with, or failing to cooperate in an official, internal or external administrative investigation conducted by or at the request of the county.

B. Whenever an elected official or an executive employee delegated the responsibility for personnel actions determines it necessary to dismiss, suspend, demote and/or administer an inband reduction in pay to a permanent employee in the classified system for one or more of the reasons set forth in subsection A of this section, or other reason deemed sufficient by the elected official, he or she shall provide written notification of the contemplated action to the employee, the county personnel director and the county prosecuting attorney. Such written notification of contemplated action shall include:

1. A detailed statement setting forth the charges, allegations of wrongdoing or alleged inadequacies of the employee.

2. A description of the employer's evidence.

3. A detailed statement of the disciplinary action to be taken (dismissal, suspension, demotion and/or inband reduction in pay) and the effective date thereof.

4. Notice to the employee that, except in cases of demotion, suspension for under thirty (30) days in

duration, and/or inband reduction in pay. he or she shall be placed on administrative leave with pay effective upon receipt of the written notification of contemplated action.

5. That, if applicable, such administrative leave with pay status shall continue until the effective date given for the contemplated action, or if the employee exercises his or her right to appeal, upon receipt of the written decision of the supervising elected official provided for in this section.

6. A copy of this article.

C. The dismissal, suspension, demotion and/or inband reduction in pay shall be effective no sooner than five (5) busrness days after receipt of the written notification of contemplated action by the affected employee. A permanent employee in the classified system may appeal the action to the elected official who has supervisory control over the department or office which employs that individual. The employee shall have five (5) business days after receipt of written notice of contemplated action to personally deliver a written response to the charges to the elected official or executive employee who has signed the notice, the county personnel director and the county prosecuting attorney. This response shall constitute an appeal of the action taken against the employee. Failure of the employee to respond within the specified time period shall constitute a waiver of any right to challenge the action.

D. Upon receipt of the written response from the employee requesting an appeal of the dismissal, suspension, demotion and/or inband reduction in pay, the elected official who has supervisory control over the department shall conduct, within five (5) business days of receipt of the written response, an informal hearing for the purpose of allowing the employee to respond to the allegations made. The elected official may conduct the hearing according to such procedures as he or she may establish in writing as long as any such procedures are not inconsistent with this chapter. The employee may be represented by an attorney, if he or she so desires. The executive employee or elected official who signed the written notification of contemplated disciplinary action shall attend and may also be represented by an attorney. The hearing may be continued, at the discretion of the elected official, to allow the elected official to investigate or review the matter as a result of testimony or other evidence presented to the elected official at the hearing. If additional grounds for discipline are discovered the employee shall receive additional notice pursuant to subsection B of this section and an additional chance to respond.

E. The elected official shall issue a written decision no later than five (5) business days after the informal hearing has been concluded. An original of the decision shall be provided to the employee, and copies shall be delivered to the county personnel director and to the county prosecuting attorney. The written decision shall include a copy of this article.

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F. When the contemplated disciplinary action is a dismissal or a suspension for thirty (30) days or more and the employee chooses to appeal the disciplinary action to his or her supervising elected official, he or she shall be placed on administrative leave with pay until receipt of the written decision of the supervising elected official. If the employee appeals the decision of the supervising elected official to the Ada County personnel hearing officer, he or she shall be placed on administrative leave without pay, pending further completion of the appeal process set forth therein.

When the contemplated disciplinary action is a suspension with pay and the employee chooses to appeal the suspension to his or her supervising elected official, the employee shall continue to receive his or her pay during the further completion of the appeal process.

When the contemplated disciplinary action is a demotion, suspension for under thirty (30) days in duration, and/or an inband reduction in pay and the employee chooses to appeal the disciplinary action to his or her supervising elected official, the employee shall not be placed on administrative leave, however, the demotion, suspension and/or reduction in pay shall be held in abeyance until receipt of the written decision of the supervising elected official, at which time the disciplinary action shall take effect, if applicable.

G. There is hereby created the position of Ada County personnel hearing officer. The individual chosen for this position will serve when needed, as cases arise under the appeal process described herein. The person

selected as the Ada County personnel hearing officer shall be licensed to practice law in the state of Idaho, and shall have had experience in either the conduct of administrative hearings or the practice of local government law.

H. The Ada County personnel hearing officer shall be selected for a two (2) year appointment. At the conclusion of the two (2) year appointment, the hearing officer shall be reappointed or a replacement chosen by a majority vote of the selection committee.

I. The selection committee shall consist of all of the elected officials of Ada County, with the exception of the trial court administrator for the fourth judicial district court. Each elected official, excluding the trial court administrator for the fourth judicial district court, shall be entitled to vote in the selection process. The chairman of the board of Ada County commissioners shall act as chairman of the selection committee. He shall convene the first meeting of the selection committee within thirty (30) days from the date of adoption of this subsection. Additional meetings shall be conducted as the selection committee deems appropriate, but the selection process shall be completed and the Ada County personnel hearing officer shall be appointed within ninety (90) days of the initial meeting.

J. Each member of the selection committee shall have the right to nominate at least one individual who possesses the minimum qualifications set forth in subsection G of this section. The selection committee shall choose the

Ada County personnel hearing officer by majority vote of all members of the committee.

K. The Ada County personnel hearing officer shall preside over hearings to consider appeals of the employment actions brought under the provisions of this chapter. The hearing officer shall receive compensation for such duties, as determined by the selection committee.

L. If the employee is dissatisfied with the written decision of the elected official-rendered pursuant to subsection E of this section, he or she may appeal to the Ada County personnel hearing officer. A notice of appeal must be filed with the county personnel director within five (5) business days of receipt, by the employee, of the written decision of the elected official, as set forth above. The Ada County personnel director shall promptly notify the Ada County personnel hearing officer and the Ada County prosecuting attorney of the receipt of the appeal. The Ada County personnel hearing officer shall conduct a formal hearing on such appeal, within fifteen (15) business days of receipt of the notice of appeal by the county personnel director. If the employee is represented by counsel, an entry of appearance must accompany the filing of the appeal.

Within forty eight (48) hours, excluding weekends, after an appeal is filed, the Ada County hearing officer will conduct a prehearing conference to address matters involving discovery. Each party must submit written requests for discovery to the hearing officer at the prehearing conference, and the hearing officer may hear any objections to discovery or motions for protective orders at that time. At the conclusion of the pre hearing

conference, the hearing officer will issue a written order establishing time frames for the completion of all discovery. In all circumstances, discovery must be completed five (5) calendar days prior to the formal hearing. The date set for the hearing may be continued only upon the written consent of all parties to the proceeding and the hearing officer. Appropriate sanctions may be imposed by the hearing officer for failing to abide by the discovery time frames established in the hearing officer's order; for example, at the hearing a party may be prevented from offering for substantive purposes evidence sought in their discovery requests.

Five (5) calendar days before the date set for the hearing before the Ada County personnel hearing officer, a prehearing conference shall be held by the personnel hearing officer to: define the issue(s), identify the evidence and witnesses to be adduced at the hearing, discuss existing or potential problems and possible resolutions, and determine the anticipated length of the hearing. Each party shall bring to the prehearing conference a statement which sets forth the following:

1. A concise statement of the material facts supporting the parties' claims or defenses.

2. A statement of admitted or undisputed facts.

3. A statement of issues of law supported by a memorandum of authorities.

4. A list of summaries or schedules referring to attached, itemized exhibits concerning any subject matter which involves accounting, computation, chronology or similar data reasonably calling for orderly itemization, e.g., wages, income, expenses, operations, tax computations, disability periods, a detailed itemization of claimed losses or injuries and that data and reasons upon which an expert bases his opinion (not the opinion itself), which clearly reflects the claims, defenses or evidence of the party, together with references to the records of other sources upon which such summaries or schedules are based.

5. The names, addresses and telephone numbers of all witnesses, except impeaching witnesses.

6. Any other appropriate comments, suggestions or information for the assistance of the hearing officer in hearing the case and reaching a decision thereon, or which the party intends to rely on or submit at the hearing.

No further discovery shall be allowed. Material facts, witnesses, exhibits and other contents of which disclosure is required in the prehearing statement and which are not disclosed in the statement are not admissible at the hearing by the party failing to disclose.

M. The hearing before the Ada County personnel hearing officer shall be conducted in the same general manner as a hearing pursuant to the administrative

procedures act of the Idaho Code[1]. No continuance of the hearing shall be granted except for good cause, and upon the written consent of both parties and the hearing officer. An electronic recording device shall preserve the testimony presented at such hearing and all documents received in evidence shall be preserved for possible future proceedings. The employee and the elected official or executive employee may be represented by counsel.

N. Following the hearing before the Ada County personnel hearing officer, a written decision shall be rendered within fifteen (15) business days after the hearing date. The written decision shall set forth specific findings of fact and conclusions of law, based upon the testimony and evidence presented at the hearing. The Ada County personnel hearing officer has full authority to affirm, reverse or modify, wholly or in part, the previous employment action taken against the employee. The hearing officer is invested with full authority to order that the employee be reinstated to his prior position and status, with accrued pay and benefits, retroactive to the date of the employment action.

O. Either party shall have the right to appeal the decision of the Ada County personnel hearing officer to the district court of the fourth judicial district within sixty (60) days of the issuance of the written decision of the Ada County personnel hearing officer. (Ord. 383, 10-12-1999; amd. Ord. 386,12-14-1999; amd. Ord. 390, 5-23-2000)

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[1] § 67-5201 et seq., Idaho Code.

Appendix A

CHAPTER 7

~~COUNTY~~ PERSONNEL SYSTEM

ARTICLE H. GRIEVANCES[1]

SECTION:

1-7H-1: Grievance Procedures

1-7H-1: **GRIEVANCE PROCEDURES:** The following grievance procedures may be utilized only by nonprobationary, permanent county employees; provided, however, if the grievance is related to a "disability" as defined in the Americans with disabilities act, these grievance procedures may be utilized by all county employees regardless of whether the employee is probationary, temporary, permanent, full-time, part-time, classified or at will:

A. A classified employee shall utilize this procedure to resolve any difficulty or problem he or she may have with any aspect of his or her employment, with any disciplinary actions taken by his or her supervising executive employee or supervising elected official, and with any issues relating to an employee's "disability" as defined in the Americans with disabilities act; provided, however, matters of dismissal, suspension, demotion and/or inband reduction in pay, must be resolved in accordance with the procedures set forth in article G of this chapter.

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[1] Prior ordinance history: Ord. 110, 12-10-1980; Ord. 110-18-85, 1-21-1985; Ord. 141 8-29-1985; Ord. 219, 5-3-1990; Ord. 278, 9-13-1994.

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B. A classified employee shall, within five (5) business days of learning of the occurrence, action or inaction, as the case may be, file with his or her immediate supervisor, a written grievance setting forth in detail the substance of the difficulty, the reasons therefor and possible solutions. The grievance may be submitted on forms supplied by the personnel department or on a plain sheet of paper. The grievance shall be presented to the employee's immediate supervisor. Failure to file a written grievance in accordance with this procedure and within the time specified shall constitute a waiver of the right to use this grievance procedure, and shall constitute a failure to exhaust administrative remedies.

C. The immediate supervisor shall, within five (5) business days of receipt of the grievance, respond in writing to the grievance and file a copy of the grievance and the supervisor's response thereto with the department's personnel file as soon as is practical.

D. If the employee is dissatisfied with the immediate supervisor's response or if the immediate supervisor does not issue a written response to the grievance within the time period stated, the employee shall have five (5) business days from the end of the previous five (5) business day period to appeal the response, or lack thereof, to the department or division supervisor in charge of the department or division in which the grievant is an employee, or such other person as the supervising elected official may designate. The designated executive employee shall respond in writing to each appeal, brought pursuant to this subsection, within five (5) business days of his or her receipt of the appeal. A copy of the appeal and the executive

employee's response thereto shall be filed with the supervising elected official as soon as practical.

E If the employee is dissatisfied with the response of the executive employee as aforesaid, the employee may, within five (5) business days, appeal the decision of the executive employee to the supervising elected official. The decision of the elected official shall be final in each case, with the exception of a grievance involving an employee's salary. In grievances involving an employee's salary, the employee may, within five (5) business days, appeal the decision of the supervising elected official to the board of Ada County commissioners for final action. The supervising elected official or board of county commissioners, as the case may be, shall render a written decision within ten (10) business days after receipt of the appeal.

F: Final resolution of each grievance shall be reduced to writing by the supervisor, executive employee, supervising elected official or board of county commissioners, as the case may be, and the original shall be presented to the employee and a copy thereof filed in the department personnel file. Copies of the final resolution of each grievance shall be filed with the Ada County personnel director and the department's personnel file as soon as is practical. (Ord. 383, 10-12-1999: amd. Ord. 401.10-31-2000)

Appendix A

CHAPTER7

COUNTY PERSONNEL SYSTEM

ARTICLE I. SICK LEAVE[1]

SECTION:

1- 71-1: Accrual
1-71-2: Use Of Sick Leave
1-71-3: Conditional Uses Of Sick Leave
1- 71-4: Maternity Leave
1- 71-5: Sick Leave Exchange

1-71-1: ACCRUAL:

A. Sick leave shall accrue to all full-time county employees covered by this chapter, including employees who are serving their entry-probationary or inter- or intrapromotional-probationary period, at the rate of eight (8) hours for each month of service. Sick leave shall be allowed to accumulate to a maximum of three hundred thirty six (336) hours. Employees who normally work a shift schedule of twenty four (24) hours on duty and forty eight (48) hours off shall accrue sick leave at the rate of eleven (11) hours per month; maximum accumulation will be four hundred sixty two (462) hours.

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[1] Prior ordinance history: Ord. 110, 12-10-1980; Ord. 110-15-84, 11-14-1984; Ord. 162, 12-17-1986; Ord. 179, 8-24-1987; Ord. 219, 5-3-1990; Ord. 227, 11-8-1990; Ord. 244, 4-2-1992; Ord. 273, 3-24-1990; Ord. 278, 9-13-1994; Ord. 360,6-16-1998.

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B. Sick leave shall not accrue to any employee on any kind of leave of absence without pay, suspension without pay or layoff. Sick leave shall accrue while an employee is on approved leave with pay, on approved vacation leave, on approved military leave with pay and on approved sick leave. Sick leave shall not be taken in less than one-half (½) hour increments.

C. Classified employees hired as part-time employees, including part-time employees who are serving their entry-probationary or inter- or intrapromotional-probationary period, who usually work twenty (20) or more hours per week, shall accrue sick leave at the rate of 0.0462 times the total hours worked per month.

D. All accrued sick leave shall be forfeited at the time of separation from county service and no official or employee shall be reimbursed for sick leave at the time of separation.

E. Sick leave shall be taken on a workday basis. Regularly scheduled days off and officially designated holidays falling within a period of sick leave shall not be counted against sick leave. Sick leave shall not be taken in advance of being earned, by any county employee covered by this chapter, regardless of their status as an entry-probationary, a promotional-probationary or a permanent employee.

F. In cases where absences for sick leave exceed three (3) consecutive working days, the elected official or department head may require verification by a physician or other authorized practitioner.

G. If absence for illness or injury extends beyond the sick leave accrued to the credit of the employee, such additional time may be charged to vacation leave. If all sick leave and vacation leave is used, the employee may be granted leave without pay. (Ord. 380, 9-7-1999; amd. Ord. 383,10-12-1999)

1-71-2: **USE OF SICK LEAVE:**

A. It is the policy of Ada County that sick leave shall be used only when medically necessary. Therefore, except for the use of sick leave specified in subsection B of this section, an employee shall be limited to four (4) uses of sick leave in a twelve (12) month period. Such use of sick leave shall not exceed ten (10) days total in a twelve (12) month period.

B. The limitations on use of sick leave set forth above do not apply when sick leave is used by an employee for the following reasons:

1. Inpatient hospital care and related convalescence.

2. Outpatient hospital care and related convalescence.

3. Sick hours used for scheduled doctor appointments or physical therapy unless such sessions exceed more than half an employee's work day.

4. Conditional use of sick leave as provided in section 1-71-3 of this article.

5. Sick leave used for an ongoing medically diagnosed illness.

C. Except for sick leave used as provided in subsection B of this section an employee who exceeds four (4) uses of sick leave in a twelve (12) month period shall be placed on disciplinary review.

D. An employee on disciplinary review for violation of sick leave policy, shall accrue sick leave as provided in subsection 1-71-1¯A of this article, but shall not use sick leave except as provided in subsection B of this section. Further use of sick leave except as provided in subsection B of this section shall result in a notice of intent to terminate employment as provided in section 1-7G-3 of this chapter.

E. An employee on disciplinary review for violation of sick leave policy shall not be eligible for any increase in pay (merit or step) during any fiscal year in which the disciplinary review is imposed, nor for the fiscal year following. (Ord. 380, 9-7-1999)

1-71-3: **CONDITIONAL USES OF SICK LEAVE:**

A. Classified employees may use sick leave when, under compelling and necessary circumstances, they must administer aid and comfort to an immediate member of the family or when an immediate member of the family is quarantined, or when the employee is using family and medical leave as outlined in article K of this chapter. Immediate members of the family shall be limited to, for the purposes of sick leave usage, spouses, natural or adoptive parents of the employee, natural and adopted children living with an employee, permanent household members living with an employee on a permanent basis and temporary household

members over whom the employee has charge and who are living with an employee on a temporary basis. Elected officials and department heads shall consider requests for sick leave usage for immediate family members on a case-by-case basis; provided, however, requests for sick leave usage relating to family and medical leave shall conform to such leave policies as outlined in article K of this chapter. In cases where sick leave usage exceeds two (2) consecutive working days, the elected official or department head may require a physician's or other licensed practitioner's verification of the illness or injury and a statement that it is compelling and necessary that the employee administer aid and comfort to the immediate family member including the expected length of time such aid and comfort is compelled and necessary.

B. In case of death in the employee's immediate family, the employee shall be allowed to use three (3) days of accrued sick leave for bereavement purposes relating to the death of an employee's immediate family member. However, the supervising elected official or department head may allow, at his or her discretion, an additional one or two (2) days of sick leave for the purpose of traveling long distances to and from the place of death and/or funeral. Such allowances of sick leave usage shall be limited to deaths of spouses, natural and adopted children, stepchildren, parents, stepparents, siblings, stepsiblings, grandparents and grandchildren. Such leave shall be charged to the employee's accrued sick leave. Employees who wish to take leave from work for deaths of other relatives or of friends may take either vacation leave or leave without pay.

C. Employees may use their accrued sick leave for only the first five (5) days, that is, the five (5) day waiting/elimination period after making application for workers' compensation benefits as may be provided by the county.

D. Employees making application for disability benefits as may be provided by the county must exhaust all accrued sick leave prior to receiving any paid disability benefits. (Ord. 380, 9-7-1999; amd. Ord. 383,10-12-1999)

1-71-4: **MATERNITY LEAVE:** Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth and recovery therefrom are, for all job-related purposes, temporary disabilities. (Ord. 380, 9-7-1999; amd. Ord. 383, 10-12-1999)

1-71-5: **SICK LEAVE EXCHANGE:**

A. Intradepartmental promotional-probationary employees and permanent employees only shall be allowed to exchange their unused sick leave for vacation leave, compensatory time off, or the cash equivalent or any combination thereof, at the rate of three for one (3:1), that is three (3) hours of unused sick leave for one hour of vacation leave, compensatory time off, or the cash equivalent or any combination thereof. Sick leave converted to vacation leave, compensatory time off, or cash shall then be deducted from the employee's available sick leave.

B. An eligible employee shall not be allowed to exchange unused sick leave if:

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1. He or she has less than one hundred twenty three (123) hours of unused sick leave;

2. The exchange would reduce his or her unused sick leave balance below one hundred twenty (120) hours as of July 31 of the year in which the request for sick leave exchange is made; or

3. Notice of intent to terminate the employment relationship has been provided, orally or in writing, by either the county or the employee.

C. Exchanges of unused sick leave for a fraction of an hour of vacation leave, compensatory time off, or the cash equivalent; for example, seven (7) hours' sick leave for 2.33 hours of compensatory time off or the cash equivalent. shall not be allowed.

D. The employee's supervising elected official or department head shall have sole discretion to determine if the exchange shall be for vacation leave, compensatory time off, or the cash equivalent, or any combination thereof.

E. Exchanges of unused sick leave must be requested in writing and submitted to the employee's supervising elected official or department head no sooner than July 15 and no later than July 31 of each year, and will not become effective unless the requesting employee remains employed by Ada County after August 1 of the year in which the request for exchange of sick leave was made. (Ord. 380,9-7-1999; amd. Ord. 383,10-12-1999)

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CHAPTER 7

COUNTY PERSONNEL SYSTEM

ARTICLE J. VACATION LEAVE[1]

SECTION:

1-7J-1: Accrual
1-7J-2: Use
1-7J-3: Probationary Employees
1-7J-4: Part-Time Employees

1-7J-1: **ACCRUAL:**

A. Vacation time shall not accrue to any employee on any kind of leave of absence without pay, suspension without pay or layoff or when working overtime.

B. The rate at which employees covered by this chapter shall accrue vacation leave will be in the following manner:

Years Of Continuous Service	Rate	Maximum Accrual
Less than 5 years	8 hours/month or 96 hours/year	192 hours

[1] Prior ordinance history: Ord. 110, 12-10-1980; Ord. 110-3-84, 1-4-1984; Ord., 2-29-1984; Ord. 110-13-84, 8-22-1984; Ord. 110-14-84, 9-12-1984; Ord. 149, 4-2-1986; Ord. 173, 6-22-1987, eff. retroactive to 1-1-1987; Ord. 179,8-24-1987; Ord. 219, 5-3-1990; Ord. 278, 9-13-1994; Ord. 307, 7-30-1996.

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More than 5 years but less than 10 years	10 hours/month or 120 hours/year	240 hours
More than 10 years but less than 15 years	12 hours/month or 144 hours/year	288 hours
More than 15 years but less than 20 years	14 hours/month or 168 hours/year	336 hours
More than 20 years	16 hours/month or 192 hours/year	384 hours

C. EMS field personnel shall accrue vacation leave at the following rates:

Years Of Continuous Service	Rate	Maximum Accrual
Less than 5 years	14.66 hours/month or 176 hours/year	272 hours
More than 5 years but less than 10 years	16.66 hours/month or 200 hours/year	320 hours
More than 10 years but less than 15 years	18.66 hours/month or 224 hours/year	368 hours
More than 15 years but less than 20 years	20.66 hours/month or 248 hours/year	416 hours
More than 20 years	22.66 hours/month or 272 hours/year	464 hours

D. Vacation leave shall accrue to all full-time county employees covered by this chapter at the rates listed above for each month of service. EMS field personnel must work or be on approved leave with pay for at least four (4) shifts, a shift being twenty four (24) continuous work hours, per month of service to accrue the vacation leave for that month.

E. Years of service credit for purposes of vacation leave accrual shall not be allowed for any period(s) of prior service with the county which ended with an employee's termination of employment with the county, for whatever reason(s). Provided, however, that years of service credit for purposes of vacation leave accrual shall be allowed for periods of prior service if an employee was reinstated following such break in service, pursuant to section 1-7D-7 of this chapter. (Ord. 383,10-12-1999)

1-7J-2: **USE:**

A. Vacation leave shall be transferable from department to department only to the extent that it is accrued and accumulated; provided, however, EMS field personnel being transferred to another department shall be compensated and cashed-out by the emergency medical services department at the time of transfer for their accrued but unused vacation leave which exceeds the maximum accrual limits established in subsection 1-7J-1 B of this article for other classified employees.

B. Vacation leave shall not be earned, accrued or accumulated during any pay period in which the

maximum accruals and accumulations provided by this article have been met.

C. Vacation leave not taken shall be compensated for at the time of separation only to the maximum accruals and accumulations allowed in subsections 1-7 J-1 Band C of this article.

D. Vacation leave shall be taken on a workday basis and only when approved by the employee's supervisor, department head or supervising elected official. Officially designated holidays falling within a period of vacation leave shall not be counted against vacation leave with the exception of EMS field personnel for whom such holidays shall be counted against vacation leave. Vacation leave shall not be taken in advance of being earned. Vacation leave shall not be taken in less than one-half (½) hour increments. (Ord. 383,10-12-1999)

1-7J-3: **PROBATIONARY EMPLOYEES:**

A. Employees shall not accrue vacation leave during "entrance probation", as defined in subsection 1-7E-1 B of this chapter.

B. Upon successful completion of probationary service, employees that were formerly on entrance probation will accrue vacation leave at the rate established in subsection 1-7 J-1 B of this article retroactive to date of commencement of their probation.

C. Employees on "interdepartmental promotional probation", as defined in subsection 1-7E-1 B of this

chapter, shall be treated for purposes of this rule the same as employees on entrance probation as defined above.

D. Employees on "intradepartmental promotional probation", as defined in subsection 1-7E-1 B of this chapter, shall continue to accrue, and shall be able to use, vacation leave during the period of their probation at the same rate and in the same manner as they did prior to promotion. (Ord. 383, 10-12-1999)

1-7J-4: **PART-TIME EMPLOYEES:**

A. Classified employees who meet the definition of part-time employees and who regularly work twenty (20) or more hours per week, shall accrue vacation leave, effective October 1, 1996, at the rates listed below times the total hours worked per month up to the maximums, also listed below:

Years Of Continuous Service	Rate	Maximum Accrual
Less than 5 years	0.0462	192 hours
More than 5 years but less than 10 years	0.0577	240 hours
More than 10 years but less than 15 years	0.0692	288 hours
More than 15 years but less than 20 years	0.0807	336 hours
More than 20 years	0.0923	384 hours

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Credit for years of continuous service with the county shall be retroactive to the county employee's date of hire.

Years of service credit for purposes of vacation leave accrual shall not be allowed for any period(s) of prior service with the county which ended with an employee's termination of employment with the county, for whatever reason(s). Provided, however, that years of service credit for purposes of vacation leave accrual shall be allowed for periods of prior service if an employee was reinstated following such break in service, pursuant to section 1-7D-7 of this chapter.

B. Part-time employees who later become permanent full-time employees shall, for purposes of vacation leave accrual only, be entitled to credit, as full-time years of service, all permanent part-time service during which the employee worked twenty (20) or more hours per week. No such credit will be permitted for any period of part-time service during which the employee worked less than twenty (20) hours per week. (Ord. 383,10-12-1999)

CHAPTER 7

COUNTY PERSONNEL SYSTEM

ARTICLE K. SPECIAL LEAVES[1]

[1] Prior ordinance history: Ord. 110, 12-10-1980; Ord. 110-17-85, 1-15-1985; Ord. 157, 11-12-1986; Ord. 166,4-16-1987; Ord. 173,6-22-1987, eft. retroactive to 1-1-1987; Ord. 186, 3-3-1988; Ord. 273, 3-24-1994;

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SECTION:

1- 7K-1: Holidays
1-7K-2: Leave Of Absence Without Pay
1-7K-3: Leave Of Absence With Pay
1-7K-4: Court And Jury Duty
1-7K-5: Military Leave
1-7K-6: Family And Medical Leave

1- 7K -1: **HOLIDAYS:**

A. The legal holidays for the county are:

January 1	New Year's Day
Third Monday in January	Martin Luther King Day
Third Monday in February	Washington's Birthday
Last Monday in May	Decoration Day
July 4	Independence Day
First Monday in September	Labor Day
Second Monday in October	Columbus Day
November 11	Veterans Day
Fourth Thursday in November	Thanksgiving Day
December 25	Christmas

and any day so designated by the board. Employees in the office or department of the sheriff and employees of the detention division of the juvenile court services department shall not receive Columbus Day as a county holiday, but rather shall be granted one floating holiday; said floating holiday

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Ord. 278, 9-13-1994; Ord. 340, 9-2-1997; Ord. 361, 6-16-1998.

shall accrue on Columbus Day of each year and shall be used within one year of accrual.

B. In the event that a holiday occurs on a Saturday, the preceding Friday shall be a holiday, and if the holiday falls on a Sunday, the following Monday shall be a holiday.

C. Employees who do not work on a holiday declared by the board, regardless of the holiday being either a scheduled workday or a scheduled day off, shall be compensated in cash, compensatory time off, or a combination thereof, for the number of hours they would have otherwise worked had the holiday been a regular workday at the same rate they would regularly receive.

D. Employees who work on a holiday declared by the board, regardless of the holiday being a scheduled workday or a scheduled day off, shall be compensated in cash, compensatory time off, or a combination thereof, at the rate of two and one-half (2 ½) hours for each hour worked on the holiday; provided however, that EMS field personnel shall be compensated at the rate of one and one-half (1 ½) hours for each hour worked on the holiday. No additional compensation shall be due for such hours worked.

E. EMS field personnel shall not be entitled to holidays and are excluded from subsections A through C of this section. However, EMS field personnel shall be entitled to vacation leave as provided in subsection 1-7J-1C of this chapter.

F. Employees must regularly work twenty (20) or more hours per week to be eligible for county-paid holidays. (Ord. 383, 10-12-1999)

1-7K-2 **LEAVE OF ABSENCE WITHOUT PAY:**

A. A department head, upon written approval from the elected official responsible for said department and, after consulting with the board of county commissioners, may grant an employee leave of absence without pay for a period of time not to exceed six (6) months. However, leave of absence without pay shall be granted by the county if such leave is requested by eligible county employees for purposes relating to family and medical leave and the leave is consistent with the county's family and medical leave policy as outlined in this article.

B. Upon return from leave without pay, the department head may restore the employee to his/her former position and status or one of equivalent pay and status. However, the department head shall restore an eligible employee who is on family and medical leave to the same position he or she held at the time of taking such leave or to an equivalent position in accordance with the county's family and medical leave policy as outlined in this article.

C. Upon return from leave without pay, the employee shall be restored to the same status regarding annual leave. Time on leave without pay will not apply toward annual leave, sick leave or salary increases. (Ord. 383,10-12-1999)

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1-7K-3: LEAVE OF ABSENCE WITH PAY:

A. A department head or an elected official responsible for a department or an office may grant, with the concurrence of the board, an employee leave of absence with pay and fringe benefits when such leave is in the best interest of or will benefit the county or when an employee is approved for workers' compensation supplemental pay and benefits.

B. During an approved leave of absence with pay, an employee will continue to accrue vacation leave and sick leave, to receive years of service credit for purposes of vacation leave accrual, and to receive appropriate salary increases.

C. The salary or wage to be paid to an employee on an approved leave of absence with pay shall be negotiated by the employee and the department head or elected official responsible for the department or office, and approved by the board; provided, however, the salary or wage to be paid to an employee approved for workers' compensation supplemental pay and benefits shall be as provided in subsections 1-7C-10A and B of this chapter. If the employee is compensated by another entity during the leave of absence with pay, the county shall not pay more than the difference between the employee's county gross monthly salary, excluding fringe benefits, and the employee's gross monthly salary or wages paid by the other entity.

D. An employee placed on an approved leave of absence with pay for the purpose of attending courses of advanced professional study shall sign a document

certifying that he or she will return to employment with the county for twice such period of time as on leave with pay. The employee shall reimburse the county for salary and other benefits paid during the period he or she is on leave of absence with pay if he or she does not comply with this section. (Ord. 383,10-12-1999)

1-7K-4: **COURT AND JURY DUTY:**

A. Leave Of Absence With Pay: A classified employee shall be considered on leave with pay for the period of time when he or she is directed by proper authority to:

1 .Appear as a witness for a governmental entity;

2. Attend court or other hearings in connection with their official duties; or

3. Serve as a member of a jury.

However, any payment for such duties other than the employee's salary shall be endorsed over to the county. If an employee fails to do so, the employee's pay shall be reduced by the amount of any such payment.

B. Leave Of Absence Without Pay: A classified county employee shall be considered on leave without pay when he or she appears in or attends court for any reason other than as provided for above; provided however, an employee on leave without pay for attendance in court for whatever purpose may use accrued annual leave or accrued compensatory time off instead of taking leave without pay. (Ord. 383,10-12-1999)

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1-7K-5: **MILITARY LEAVE:**

A. An employee who is a member of the national guard or military reserve of the United States shall be entitled to a maximum of fifteen (15) calendar days' leave in anyone calendar year to participate in ordered and authorized field training under the national defense act.

B. Military leave shall not be charged to the employee's annual leave or any other benefits.

C. If the gross amount earned by the employee during military leave is less than his/her county gross salary for that period, the county will pay the difference. If the employee's pay during the leave is greater than his/her county gross salary for that period, it will be considered leave without pay, although benefits will be provided.

D Military leave must be approved by the appointing authority at least fifteen (15) calendar days in advance except in emergencies and such request for leave must be supported by a copy of orders or other satisfactory document. (Ord. 383, 10-12-1999)

1-7K-6: **FAMILY AND MEDICAL LEAVE:**

A. Eligibility: County employees who have been employed by the county for at least twelve (12) consecutive or nonconsecutive months of service and who have worked for the county for at least one thousand two hundred fifty (1,250) hours during the twelve (12) month period immediately preceding the commencement of the leave shall be eligible for family and medical leave.

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B. Leave Entitlement:

1. Eligible county employees are entitled to a total of twelve (12) workweeks of family and medical leave during a twelve (12) month period. Such twelve (12) month period shall be measured backward from the date an employee uses any family and medical leave. Each time an employee takes family and medical leave, the remaining leave entitlement would be any balance of the twelve (12) weeks which has not been used during the immediately preceding twelve (12) months.

2. Eligible county employees who are also husband and wife may take only a combined total of twelve (12) weeks' leave during such twelve (12) month period, if the leave is taken for the birth of a child, to care for a child after birth, for the placement of a child for adoption or foster care, to care for a child after placement for adoption or foster care or to care for a parent with a serious health condition. This limitation does not apply to family and medical leave taken by either spouse to care for the other, to care for a child with a serious health condition or for his or her own serious health condition.

C. Reasons For Family And Medical Leave: Eligible county employees may take family and medical leave to care for employees': newborn babies after birth; newly adopted children and newly placed foster care children; and/or spouses, sons, daughters or parents who have serious health conditions. Such leave may also be taken because employees have serious health conditions which make them unable to perform the essential functions of their positions.

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D. Substitution Of Sick Leave, Compensatory Time Off And Vacation Leave: Eligible county employees must first substitute and use all but sixteen (16) hours of accrued paid sick leave for their family and medical leave. After substituting and exhausting all but sixteen (16) hours of accrued paid sick leave, employees must substitute and use all of their accrued compensatory time off for their family and medical leave. Following which, employees must then substitute and use all of their accrued paid vacation leave prior to being authorized unpaid family and medical leave.

E. Intermittent Leave And Reduced Leave Schedules:

1 .When medically necessary, elected officials or executive employees delegated the responsibility for personnel actions shall allow employees to take intermittent leave or to take leave on a reduced leave schedule.

2. If the family and medical leave is being taken because of the birth or placement of a child for adoption or foster care, elected officials or executive employees delegated the responsibility for personnel actions may allow or disallow employees to take intermittent leave or to take leave on a reduced leave schedule.

F. Benefits:

1. Eligible county employees shall continue to receive county-paid medical, dental and vision insurance coverages, as may be provided active employees, during the family and medical leave. However, if

employees elect to retain health insurance coverage for their dependents during family and medical leave, they must continue to pay their respective premium contributions for such coverage. If employees elect to not retain health insurance coverage for their dependents during family and medical leave, they shall be entitled to reenroll their dependents without waiting any preexisting condition periods, physical examinations or insurance carriers' ability to reject such reenrollment. If employees fail to return to full- or part-time work or on a reduced leave schedule, within thirty (30) days after taking unpaid family and medical leave, they may be required to repay the county for all health insurance premiums paid for them by the county during the unpaid family and medical leave.

2. Life insurance and disability insurance shall not be maintained at county expense for employees on family and medical leave. If employees on medical and family leave elect to continue such insurance coverages, they must pay the respective premiums.

G. Employment Protection:

1. Eligible employees shall be returned to the same position held at the time of taking family and medical leave or to an equivalent position with equivalent pay, benefits and working conditions, and substantially similar duties, responsibilities and authority.

2. Key employees, however, are not required to be returned to the same position the key employee held when he or she began their family and medical leave, or to an equivalent position, if the return to employment,

not the key employee's absence, would cause substantial and grievous economic injury to the operations of the county.

H. Requests For Leave: Employees shall provide the county with at least thirty (30) days' advance notice before family and medical leave begins, if the need for the leave is foreseeable. If such advance notice is not practicable, it shall be given as soon as practicable. Such notice shall be at least verbal and clearly indicate that he or she needs family and medical leave and the expected beginning and ending dates of such leave. If the leave is being requested because of a serious health condition, the employee's supervisor, department head and elected official may inquire further to determine if the medical condition meets the definition of a serious medical condition, and shall request medical certification by a health care provider.

I. Health Care Provider Certification: The elected official or executive employee delegated the responsibility for personnel actions shall require the health care provider to certify that the employee is needed to care for the family member, that the employee is unable to perform the essential functions of his or her position, and/or that intermittent leave or a reduced leave schedule is medically necessary.

J. Notification To Employees Requesting Leave: After an employee requests family and medical leave, the elected official or executive employee delegated the responsibility for personnel aetions shall provide the employee with a written notice. This notification shall be given to the employee immediately, and before the

leave begins, unless the county does not have at the time such leave begins sufficient information as to the employee's reason for taking leave. Such notification shall include:

1. A statement that the requested leave will be counted against the employee's twelve (12) workweek family and medical leave entitlement;

2. A requirement for the employee to furnish medical certification of a serious health condition and notification that if the employee fails to provide complete certification, the request for leave may be denied until the required certification is provided;

3. A notification that the county requires the employee to substitute and use all but sixteen (16) hours of accrued paid sick leave, all accrued compensatory time off and all accrued vacation leave, and of the conditions relating to the substitutions;

4. Any requirement for the employee to make premium payments to maintain health insurance benefits, if applicable, and information about how such payments may be made;

5. Any requirement for the employee to present a fitness-for-duty certificate to be returned to work;

6. Notification of the employee's right to return to the same or an equivalent position upon return from leave;

7. Notification of the employee's potential liability for payment of health insurance premiums paid by the

county during the employee's unpaid family and medical leave, if the employee fails to return to work; and

8. Any other requirements for periodic reports of the employee's status and intent to return to work or for recertification relating to the employee's serious health condition, if applicable.

K Notification To Key Employees Requesting Leave:

1. In addition to the notice given other county employees requesting family and medical leave, a key employee shall also be given notification that he or she qualifies as and has been designated as a key employee, and that the county may deny a key employee the opportunity to return to work, if the key employee's return to work would cause substantial and grievous economic injury to the operations of the county. This notice shall also include notification that the key employee will continue to be entitled to county-paid medical, dental and vision insurance coverages until either the key employee gives notice that he or she no longer wishes to return to work or the county actually disallows the key employee's return to work at the end of the family and medical leave.

2. If the elected official or executive employee determines that substantial and grievous economic injury to the operations of the county would result from the key employee's return to work, the above notification shall also include notification: a) of such determination and the basis for it; b) that the county will not allow the key employee to return to work at the

end of the leave period; c) that the county cannot and is not denying the eligible leave; and d) that the key employee will be provided a reasonable time in which to return to work, after receipt and consideration of this notice. This notice shall be delivered in person or sent by certified mail to the key employee.

3. Even after the above notice has been delivered, the affected key employee is still entitled to request to be returned to work at the end of the leave period; and, the elected official or executive employee shall again determine if the key employee's return to work would cause substantial and grievous economic injury based upon the facts at that time. If it is still determined that such economic injury would result, the county shall personally or by certified mail notify the key employee in writing of this final determination.

L. Interference, Discrimination Or Retaliation: County employees, supervisors, managers, department heads and elected officials shall not:

1. Interfere with employees' inquiries about and exercise of their rights or legal proceedings as they relate to family and medical leave;

2. Discourage, restrain nor deny employees' use of family and medical leave, or induce employees to waive their rights as they relate to family and medical leave;

3. Use employees' taking of family and medical leave as a negative factor in any employment decision or action; and/or

4. Discriminate or retaliate against, or discipline or discharge employees for opposing or complaining about any unlawful practice, filing a grievance or charge, instituting or causing to be instituted any proceeding, or giving information in connection with or testifying in any inquiry or proceeding, as it relates to family and medical leave.

M. Mandatory Grievances: Any county employee who feels that the provisions of this chapter have been violated, or otherwise disagrees with decisions made pursuant to this chapter, must pursue a grievance through the Ada County grievance procedures set forth in article H of this chapter, as may be amended from time to time, before pursuing any claim or appeal action in federal or state court. (Ord. 383,10-12-1999)

CHAPTER 7

COUNTY PERSONNEL SYSTEM

ARTICLE L. STANDARDS OF CONDUCT[1]

SECTION:

1-7L- 1: Code Of Ethics
1-7L- 2: Conflict Of Interest
1-7L- 3: Nepotism
1-7L-4: Gifts And Gratuities
1-7L- 5: Disposition Of County Property

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[1] Prior ordinance, history: Ord. 110, 12-10-1980; Ord. 110-16-85, 1-2-1985; Ord. 166, 4-16-1987; Ord. 278, 9-13-1994.

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1-7L- 6: Membership On Boards Or Commissions
1-7L- 7: Dissemination Of Information
1-7L- 8: Dress And Appearance
1-7L- 9: Administration
1-7L-10: Violations

1-7L-1: **CODE OF ETHICS:** All employees shall conduct themselves in a professional manner and shall refrain from engaging in any activities, employment or business which might reasonably be interpreted, by the people of Ada County, as interference with or compromise of their positions as county employees serving the public interest. (Ord. 383,10-12-1999)

1- 7L-2: **CONFLICT OF INTEREST:** County employees shall not take any official action nor make any decision or recommendation if the effect of such would be to the private pecuniary benefit of the employee or a member of the employee's household or a business with which the employee or a member of the employee's household is associated unless the pecuniary benefit arises out of:

A. An interest or membership in a particular business, industry, occupation or class required by law as a prerequisite to the holding by the employee;

B. Any action in the employee's official capacity which would affect to the same degree a class consisting of an industry or occupation group in which the employee or a member of the employee's household or business with which the employee is associated is a member or is engaged;

C. Any interest which the employee has by virtue of his or her profession, trade or occupation where his or her

interest would be affected to the same degree as that of a substantial group or class of others similarly engaged in the profession, trade or occupation; or

D. Any action by an employee upon any revenue measure, any appropriation measure or any measure imposing a tax when similarly situated members of the general public are affected by the outcome of the action in a substantially similar manner and degree.

For the purposes of this section the definitions found in Idaho Code section 59-703 shall control to the extent applicable. (Ord. 383,10-12-1999)

1-7L-3: **NEPOTISM:**

A. No county employee shall appoint, supervise, have influence over or otherwise employ for compensation payable from public funds, any member of his or her immediate family. Employees involved in administrative and/or support functions related to the job training partnership act (JTPA) must also comply with Idaho department of employment rules and regulations related to nepotism and the JTPA program rules and regulations.

B. For nepotism purposes, the term "member of immediate family" includes: wife, husband, daughter, daughter-in-law, son, son-in-law, mother, mother-in-law, father, father-in-law, sister, sister-in-law, brother, brother-in-law, aunt, uncle, niece, nephew, grandmother, grandfather, granddaughter, grandson, stepparent, stepchild. (Ord. 383,10-12-1999)

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1- 7L-4: **GIFTS AND GRATUITIES:** No employee shall accept any gifts, services or other privileges offered or given by any person or organization which:

A. Is under contract with the county for provisions of goods and services.

B. Is or could be regulated or administered by an agency of county government.

C. Reasonably may be expected to have any future interest in securing contracts or being a vendor of supplies, equipment or services to the county.

An employee who is offered or receives such gifts, services or privileges shall decline or return them or, if more appropriate, may donate them to a charitable or nonprofit organization. This provision does not apply to greeting cards, flowers, calendars or candy which may be sent to an entire department of county government at Christmas time or upon special occasions. (Ord. 383, 10-12-1999)

1-7L-5: **DISPOSITION OF COUNTY PROPERTY:**

A. A county employee is prohibited from purchasing county property by bidding at county-held public auctions if the sale resulting from the auction is made by, through or on behalf of the department in which he or she is an employee. Other county employees may participate in such auctions.

B. A county employee shall not participate as a bidder at county-held auctions while on county time even though participation is not prohibited. (Ord. 383,10-12-1999)

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1-7L-6: **MEMBERSHIP ON BOARDS OR COMMISSIONS:** (Rep. By Ord. 166, 4-16-1987)

1-7L-7: **DISSEMINATION OF INFORMATION:** Every employee shall exercise his/her best judgment in relating any information to which he/she may be privy in his/her position as a county employee to individuals, organizations, businesses or the press. No employee shall release information deemed confidential by the courts or Idaho Code. Information pertinent to competitive bidding by the county shall be given to all vendors in a like manner. (Ord. 383,10-12-1999)

1-7L-8: **DRESS AND APPEARANCE:** Employees are expected to present an attractive appearance. All employees, especially those who have daily contact with the public, are expected to wear presentable attire coupled with personal cleanliness and neatness. The elected official shall determine, in accordance with the requirements of a particular job, what constitutes suitable attire for the employees in their office. Personnel on special assignments may be exempted from the above requirements. (Ord. 383, 10-12-1999)

1-7L-9: **ADMINISTRATION:** An elected official or department head may define other situations which may require a more strict standard of conduct for his/her particular department. The primary responsibility for following these standards of conduct is that of the employee. It shall be the employee's responsibility to notify his/her supervisor of any activity which could be a breach of these standards. Interpretations of disputes regarding conduct under this standard of conduct shall be referred to the county personnel office or those departments responsible to the county

commissioners, or to the applicable elected official. (Ord. 383,10-12-1999)

1-7L-10: **VIOLATIONS:** Any employee who violates these standards of conduct may be subject to immediate dismissal, suspension, demotion or other adverse action. (Ord. 383, 10-12-1999)

APPENDIX B – ADA COUNTY HEARING PROCEDURES, § 1-14-1 THROUGH § 1-14-8, ADA COUNTY CODE (CHAPTER 14)

CHAPTER 14

HEARING PROCEDURES

SECTION:

1-14-1: Purpose
1-14-2: Definitions
1-14-3: Submission Of a Proposed Decision
1-14-4: Conduct Of Hearing
1-14-5: Record
1-14-6: Reopening The Record
1-14-7: Decision By The Board
1-14-8: Applicability

1-14-1: **PURPOSE:** The purpose of this Chapter shall be to provide a procedure by which the Board shall conduct hearings in land use, personnel, medical indigency, and other matters which, by Federal, State, or County law, require the receipt of evidence, whether testimony, documents, or otherwise, and a response from the Board in the form of a written decision based on the record. (Ord. 293, 5-24-95)

1-14-2: **DEFINITIONS:** For the purposes of this Chapter, words shall have the following meanings:

APPLICANT/ APPELLANT:	The person or entity seeking a decision from the Board.
BOARD:	The Board of Ada County Commissioners.

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STAFF: Any Ada County officer or employee present during the hearing (Ord. 293, 5-24-95)

1-14-3: **SUBMISSION OF A PROPOSED DECISION:**

The Board encourages any interested party to a hearing before the Board to submit a brief synopsis of the matter, argument, and a proposed decision (including findings of fact and conclusions of law, if applicable). Any synopsis, argument or proposed decision must be received by and lodged with the Board prior to commencement of the hearing. Failure to submit documents contemplated hereunder shall not prejudice an interested party. (Ord. 293, 5-24-95)

1-14-4: **CONDUCT OF HEARING:** Hearings before the Board shall be conducted in general conformance with the following procedure:

A. Generally: The Board may limit testimony and scope of the hearing as necessary. The Board, or its designee, if any, may at any time during the hearing freely inquire of anyone at the hearing, including staff.

B. Report: Hearings before the Board shall commence with a report from staff. The report may be written or oral, at the pleasure of the Board, and may include testimony from witnesses. The report shall contain recommendations and a proposed decision for the Board's review, including proposed findings of fact and conclusions of law in a form directed by the Board for such matters, if any. The Board shall not be bound by the recommendations of staff.

C. Applicant/Appellant Comments: At the conclusion of staff's comments, if any, the applicant/appellant, and those favoring the applicant/appellant's position shall be allowed an opportunity to present testimony, documents, and other evidence which supports his or her position. An applicant/appellant may be represented by counsel. Except as provided in subsection E, at the Board's discretion, testimony for and against an application may be presented in rotating order.

D. Opponent And General Comments: When the applicant/appellant has concluded his or her comments, those opposing the applicant/appellant's position or having general questions shall be provided an opportunity to present testimony, documents, or other evidence refuting the evidence presented on behalf of the applicant/appellant.

E. Applicant/Appellant Rebuttal: When the opponents, if any, have all concluded their comments, the applicant/appellant shall be allowed a brief period for rebuttal. (Ord. 293, 5-24-95)

1-14-5: **RECORD:** The staff report shall automatically become part of the record as shall any documents submitted by the applicant/appellant or any opponents, as shall all testimony given at the hearing. At conclusion of the hearing, the Board shall close the record unless the Board determines, in its discretion, additional evidence is required, in which event, it may proceed as follows: close the record with the exception of allowing the submission of specifically requested information, leave the entire record open for the submission of additional

evidence to a date certain at which time it will automatically be closed without further action of the Board, or continue the hearing to a date certain for the purpose of receiving additional evidence and conducting such further proceedings as may, in its discretion, be advisable. (Ord. 293, 5-24-95)

1-14-6: **REOPENING THE RECORD:** Prior to issuing a written decision, the Board may, for good cause demonstrated, reopen the record for the purpose of receiving additional evidence. An interested party may seek to reopen the record by filing a timely motion to reopen the proceedings containing information therein to demonstrate good cause and paying any costs which will be incurred by the County to comply with applicable law. The Board shall decide an applicant/appellant's motion to reopen the record within five (5) days of the receipt thereof. The Board may, within the time allowed herein, reopen the record for good cause on its own motion. If the Board determines to reopen the record, it shall thereafter comply with applicable law, if any, governing notice and hearings. (Ord. 293, 5-24-95)

1-14-7: **DECISION BY THE BOARD:** When the record has been closed, the Board shall take the matter under advisement for the purpose of deliberating towards a decision based on the record. After deliberating, the Board may then immediately render a written decision complying with applicable law or may continue the matter to a date and time certain for further deliberation and decision. Provided, if the matter is continued, the Board shall render a written decision within thirty (30) days, unless a shorter period is provided by law, in which case the shorter period shall apply. The Board shall deliberate and make decisions at meetings which comply with the Open Meeting Act, Idaho Code section 67-2340, et

seq., as it may be amended from time to time. (Ord. 293, 5-24-95)

1-14-8: **APPLICABILITY:** This Chapter shall apply to any matter currently pending for which no hearing has been held and to all other qualifying matters hereafter considered by the Board. (Ord. 293, 5-24-95)

APPENDIX C – ADA COUNTY ORDINANCE NO. 612

ORDINANCE NO. 612

AN ORDINANCE AMENDING ADA COUNTY CODE TITLE I, CHAPTER 7, TO DELETE REFERENCES TO AN ADA COUNTY PERSONNEL HEARING OFFICER IN COMPLIANCE WITH STATE SUPREME COURT DECISIONS, TO ADD CERTAIN DUE PROCESS PROTECTIONS TO THE HEARING BEFORE EACH ELECTED OFFICIAL, AND TO PROVIDE EXECUTIVE EMPLOYEES SO DESIGNATED BY EACH ELECTED OFFICIAL WITH CERTAIN MANAGEMENT RESPONSIBILITIES IN CONNECTION WITH CLASSIFIED EMPLOYEES.

BE IT HEREBY ORDAINED THAT ADA COUNTY CODE § 1-7G-3: DISMISSALS, SUSPENSIONS, DEMOTIONS AND INBAND REDUCTIONS IN PAY IS HEREBY AMENDED AS FOLLOWS:

Provisions of section 1-7G-2 of this article are not a prerequisite to action under this section.

A. Employees in classified service with probationary status may be dismissed, suspended, demoted and/or administered an inband reduction in pay in accordance with article E of this chapter. Any employee in classified service with permanent status may be dismissed, suspended, demoted and/or administered an inband reduction in pay for good cause, which shall include, but not be limited to, any one or a combination of the following acts or omissions which occur during the period of the employee's employment with Ada County:

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1. Failure to perform the duties and carry out the obligations imposed by the federal or state constitutions; federal or state statutes, rules or regulations; county ordinances; or rules and policies and procedures of his or her department or office.

2. Inefficiency, incompetency or negligence in the performance of his or her duties which interferes with the proper operation of his or her department or office, or failure to meet work standards for his or her job.

3. Failure to perform the essential functions of his or her employment position for any reason after the county has made reasonable accommodations as required by law.

4. Refusal to accept a reasonable and proper assignment from an authorized supervisor, or failure to perform assigned tasks within required time limits.

5. Insubordination or conduct detrimental to good order and discipline in the department or office, or conduct unbecoming of a county employee.

6. Being under the influence of any form of drug, alcohol or controlled substance, without a prescription or as authorized by law, while on duty.

7. Careless, negligent or improper use of, or unlawful conversion of, county property, equipment or funds.

8. Conviction of misconduct in office, or conviction of a felony.

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9. Acceptance of gifts in exchange for influence or favors given in an official capacity.

10. Abuse or improper use of sick leave privileges.

11. Failure to report for duty at the assigned time and place.

12. Unauthorized disclosure of information from official, nonpublic records or nonpublic information otherwise obtained in the course and scope of the employee's job.

13. Absence without proper authorization of leave.

14. Misstatement or deception in application for employment.

15. Failure to obtain or maintain a current license or certificate lawfully required as a condition of performance of duties.

16. Political activity which is disruptive of the employee's mission and duties or that of his or her department or office.

17. Use of any influence which violates the principle of this merit system in an attempt to secure a promotion or other privileges for individual advantage or gain.

18. Violations of the standards of conduct as set forth in article L of this chapter.

19. Violation of Ada County's harassment and discrimination policy or retaliation against another

employee for filing a report of harassment or discrimination.

20. Knowingly making a material misstatement or a materially misleading statement in an official report.

21. Making or repeating a material misstatement or materially misleading statement about a county employee or official with knowledge that the statement is untrue or misleading or making or repeating a material misstatement or materially misleading statement about a county employee or official with reckless disregard as to whether the statement is untrue or misleading.

22. Violating the family and medical leave act with respect to interference, discrimination and retaliation as outlined in article K of this chapter.

23. Violation of federal or state copyright laws regulating, but not limited to, the unauthorized copying or distribution ("pirating") of personal computer (PC) software or data, and/or violation of any personal computer (PC) software licensing agreement.

24. Impeding, interfering with, or failing to cooperate in an official, internal or external administrative investigation conducted by or at the request of the county.

B. Whenever ~~an elected official or an~~the executive employee delegated the responsibility for personnel actions by his or her supervising elected official determines it necessary to dismiss, suspend, demote and/or administer an inband reduction in pay to a permanent employee in the classified system for one or more of the reasons set forth in

subsection A of this section, or other reason deemed sufficient by the ~~elected official~~executive employee, he or she shall provide written notification of the contemplated action to the employee, the county personnel director and the county prosecuting attorney. Such written notification of contemplated action shall include:

1. A detailed statement setting forth the charges, allegations of wrongdoing or alleged inadequacies of the employee.

2. A description of the employer's evidence.

3. A detailed statement of the disciplinary action to be taken (dismissal, suspension, demotion and/or inband reduction in pay) and the effective date thereof.

4. Notice to the employee that, except in cases of demotion, suspension for under thirty (30) days in duration, and/or inband reduction in pay, he or she shall be placed on administrative leave with pay effective upon receipt of the written notification of contemplated action.

5. That, if applicable, such administrative leave with pay status shall continue until the effective date given for the contemplated action, or if the employee exercises his or her right to appeal, upon receipt of the written decision of the supervising elected official provided for in this ~~section~~article.

6. A copy of this article.

C. The dismissal, suspension, demotion and/or inband reduction in pay shall be effective no sooner than five (5)

business days after receipt of the written notification of contemplated action by the affected employee. A permanent employee in the classified system may appeal the action to the ~~elected official~~executive employee who has supervisory control over the department or office which employs that individual. The employee shall have five (5) business days after receipt of written notice of contemplated action to personally deliver a written response to the charges to the ~~elected official or~~ executive employee who has signed the notice, the county personnel director and the county prosecuting attorney. This response shall constitute an appeal of the action taken against the employee. Failure of the employee to respond within the specified time period shall constitute a waiver of any right to challenge the action.

D. Upon receipt of the written response from the employee requesting an appeal of the dismissal, suspension, demotion and/or inband reduction in pay, the ~~elected official~~executive employee who has supervisory control over the department shall conduct, within five (5) business days of receipt of the written response, an informal hearing for the purpose of allowing the employee to respond to the allegations made. The ~~elected official~~executive employee may conduct the hearing according to such procedures as he or she may establish in writing as long as any such procedures are not inconsistent with this chapter. The employee may be represented by an attorney, if he or she so desires. The executive employee ~~or elected official~~ who signed the written notification of contemplated disciplinary action shall attend and may also be represented by an attorney. The hearing may be continued, at the discretion of the ~~elected official~~executive employee, to allow the ~~elected official~~executive employee

to investigate or review the matter as a result of testimony or other evidence presented ~~to the elected official~~ at the hearing, or for other good reasons deemed appropriate by the executive employee. If additional grounds for discipline are discovered the employee shall receive additional notice pursuant to subsection B of this section and an additional chance to respond.

E. The ~~elected official~~executive employee shall issue a written decision no later than five (5) business days after the informal hearing has been concluded. An original of the decision shall be provided to the employee, and copies shall be delivered to the county personnel director and to the county prosecuting attorney. The written decision shall include a copy of this article.

F. When the contemplated disciplinary action is a dismissal or a suspension for thirty (30) days or more and the employee chooses to appeal the disciplinary action to his or her supervising elected official, ~~he or she shall be placed on administrative leave with pay until receipt of the written decision of the supervising elected official. If the employee appeals the decision of the supervising elected official to the Ada County personnel hearing officer,~~ he or she shall be placed on administrative leave without pay, pending further completion of the appeal process set forth therein.

When the contemplated disciplinary action is a suspension with pay and the employee chooses to appeal the suspension to his or her supervising elected official, the employee shall continue to receive his or her pay during the further completion of the appeal process. When the contemplated disciplinary action is a demotion, suspension for under thirty (30) days in duration, and/or an inband

reduction in pay and the employee chooses to appeal the disciplinary action to his or her supervising elected official, the employee shall not be placed on administrative leave, however, the demotion, suspension and/or reduction in pay shall be held in abeyance until receipt of the written decision of the supervising elected official, at which time the disciplinary action shall take effect, if applicable.

~~G. There is hereby created the position of Ada County personnel hearing officer. The individual chosen for this position will serve when needed, as cases arise under the appeal process described herein. The person selected as the Ada County personnel hearing officer shall be licensed to practice law in the state of Idaho, and shall have had experience in either the conduct of administrative hearings or the practice of local government law.~~

~~H. The Ada County personnel hearing officer shall be selected for a two (2) year appointment. At the conclusion of the two (2) year appointment, the hearing officer shall be reappointed or a replacement chosen by a majority vote of the selection committee.~~

~~I. The selection committee shall consist of all of the elected officials of Ada County, with the exception of the trial court administrator for the fourth judicial district court. Each elected official, excluding the trial court administrator for the fourth judicial district court, shall be entitled to vote in the selection process. The chairman of the board of Ada County commissioners shall act as chairman of the selection committee. He shall convene the first meeting of the selection committee within thirty (30) days from the date of adoption of this subsection. Additional meetings shall be conducted as the selection committee deems~~

~~appropriate, but the selection process shall be completed and the Ada County personnel hearing officer shall be appointed within ninety (90) days of the initial meeting.~~

~~J. Each member of the selection committee shall have the right to nominate at least one individual who possesses the minimum qualifications set forth in subsection G of this section. The selection committee shall choose the Ada County personnel hearing officer by majority vote of all members of the committee.~~

~~K. The Ada County personnel hearing officer shall preside over hearings to consider appeals of the employment actions brought under the provisions of this chapter. The hearing officer shall receive compensation for such duties, as determined by the selection committee.~~

~~L~~G. If the employee is dissatisfied with the written decision of the ~~elected official~~executive employee rendered pursuant to subsection E of this section, he or she may appeal to ~~the Ada County personnel hearing officer~~his or her elected official by filing ~~. A~~a notice of appeal ~~must be filed~~ with the county personnel director, the Ada County Prosecuting Attorney, and his or her elected official within ~~five~~ ten (~~5~~10) business days of ~~receipt, by~~mailing to the employee, ~~of~~ the written decision of the ~~elected official~~executive employee, as set forth above. The ~~Ada County personnel director shall promptly notify the Ada County personnel hearing officer~~supervising elected official ~~and the Ada County prosecuting attorney of the receipt of the appeal. The Ada County personnel hearing officer~~ shall conduct a formal hearing on such appeal, within fifteen (15) business days of receipt of the notice of appeal ~~by the county personnel director~~from the employee. If the employee is

represented by counsel, an entry of appearance must accompany the filing of the appeal.

~~Within forty eight (48) hours, excluding weekends, after an appeal is filed, the Ada County hearing officer will conduct a prehearing conference to address matters involving discovery. Each party must submit written requests for discovery to the hearing officer at the prehearing conference, and the hearing officer may hear any objections to discovery or motions for protective orders at that time. At the conclusion of the prehearing conference, the hearing officer will issue a written order establishing time frames for the completion of all discovery. In all circumstances, discovery must be completed five (5) calendar days prior to the formal hearing. The date set for the hearing may be continued only upon the written consent of all parties to the proceeding and the hearing officer. Appropriate sanctions may be imposed by the hearing officer for failing to abide by the discovery time frames established in the hearing officer's order; for example, at the hearing a party may be prevented from offering for substantive purposes evidence sought in their discovery requests.~~

Five (5) calendar days before the date set for the hearing before the ~~Ada County personnel hearing officer~~supervising elected official, a prehearing conference shall be held by the ~~personnel hearing officer~~supervising elected official to: define the issue(s), identify the evidence and witnesses to be adduced at the hearing, discuss existing or potential problems and possible resolutions, and determine the anticipated length of the hearing. ~~Each party~~The executive employee and the

employee shall each bring to the prehearing conference a concise statement ~~which~~ that sets forth the following:

1. ~~A concise statement of~~ The material facts supporting the parties' claims or defenses.

2. A ~~statement of~~ admitted or undisputed facts.

3. ~~A statement of i~~Issues of law supported by a memorandum of authorities.

4. A list of summaries or schedules referring to attached, itemized exhibits concerning any subject matter which involves accounting, computation, chronology or similar data reasonably calling for orderly itemization, e.g., wages, income, expenses, operations, tax computations, disability periods, a detailed itemization of claimed losses or injuries and that data and reasons upon which an expert bases his opinion (not the opinion itself), which clearly reflects the claims, defenses or evidence of the party, together with references to the records of other sources upon which such summaries or schedules are based.

5. The names, addresses and telephone numbers of all witnesses, except impeaching witnesses and the statement of each witness outlining their testimony.

6. Copies of any reports relevant to the proceedings.

~~6~~7. Any other appropriate comments, suggestions or information for the assistance of the ~~hearing officer~~supervising elected official in hearing the case

and reaching a decision thereon, or which the party intends to rely on or submit at the hearing.

No further discovery shall be allowed. Material facts, witnesses, exhibits and other contents of which disclosure is required in the prehearing statement and which are not disclosed in the statement are not admissible at the hearing by the party failing to disclose.

~~M~~H. The hearing before the ~~Ada County personnel hearing officer~~supervising elected official shall be conducted in the same general manner as a hearing pursuant to the administrative procedures act of the Idaho Code. No continuance of the hearing shall be granted except for good cause~~, and upon the written consent of both parties and the hearing officer~~. An electronic recording device shall preserve the testimony presented at such hearing and all documents received in evidence shall be preserved for possible future proceedings. The employee ~~and the elected official or executive employee~~ may be represented by counsel.

~~N~~I. Following the hearing before the ~~Ada County personnel hearing officer~~supervising elected official, a written decision shall be rendered within fifteen (15) business days after the hearing date. The written decision shall set forth specific findings of fact and conclusions of law, based upon the testimony and evidence presented at the hearing. The ~~Ada County personnel hearing officer~~supervising elected official has full authority to affirm, reverse or modify, wholly or in part, the previous employment action taken against the employee. The ~~hearing officer~~supervising elected official is invested with full authority to order that the employee be reinstated to his prior position and status,

with accrued pay and benefits, retroactive to the date of the employment action.

~~O. Either party shall have the right to appeal the decision of the Ada County personnel hearing officer to the district court of the fourth judicial district within sixty (60) days of the issuance of the written decision of the Ada County personnel hearing officer. (Ord. 383, 10-12-1999; amd. Ord. 386, 12-14-1999; amd. Ord. 390, 5-23-2000)~~

ADOPTED this _____ day of _____, 2006.

Board of Ada County Commissioners

By: _____
Rick Yzaguirre, Chairman

By: _____
Judy M. Peavey-Derr, Commissioner

By: _____
Fred Tilman, Commissioner

ATTEST:

_____
J. David Navarro, Ada County Clerk

PUBLISHED:_____

APPENDIX D – CONSTITUTION OF THE STATE OF STATE OF IDAHO, ARTICLE 18, § 6

§ 6. County officers. —

The legislature by general and uniform laws shall, commencing with the general election in 1986, provide for the election biennially, in each of the several counties of the state, of county commissioners and for the election of a sheriff, a county assessor, a county coroner and a county treasurer, who is ex-officio public administrator, every four years in each of the several counties of the state. All taxes shall be collected by the officer or officers designated by law. The clerk of the district court shall be ex-officio auditor and recorder. No other county offices shall be established, but the legislature by general and uniform laws shall provide for such township, precinct and municipal officers as public convenience may require, and shall prescribe their duties, and fix their terms of office. The legislature shall provide for the strict accountability of county, township, precinct and municipal officers for all fees which may be collected by them, and for all public and municipal moneys which may be paid to them, or officially come into their possession. The county commissioners may employ counsel when necessary. The sheriff, county assessor, county treasurer, and ex-officio tax collector, auditor and recorder and clerk of the district court shall be empowered by the county commissioners to appoint such deputies and clerical assistants as the business of their office may require, said deputies and clerical assistants to receive such compensation as may be fixed by the county commissioners. (Emphasis added).

APPENDIX E – STATUTES OF THE STATE OF IDAHO, TITLE 31 (COUNTIES AND COUNTY LAW), CHAPTER 7 (BOARD OF COUNTY COMMISSIONERS), § 31-714 (ORDINANCE – PENALTIES)

31-714. Ordinances — penalties.

The board of county commissioners may pass all ordinances and rules and make all regulations, not repugnant to law, necessary for carrying into effect or discharging the powers and duties conferred by the laws of the state of Idaho, and such as are necessary or proper to provide for the safety, promote the health and prosperity, improve the morals, peace and good order, comfort and convenience of the county and the inhabitants thereof, and for the protection of property therein, and may enforce obedience to such ordinances with such fines or penalties, including infraction penalties, as the board may deem proper; provided, that the punishment of any offense shall be by fine of not more than one thousand dollars ($1,000) or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment.

[1965, ch. 159, § 1, p. 308; am. 1976, ch. 145, § 1, p. 530; am. 1978, ch. 260, § 1, p. 566; am. 2000, ch. 35, § 1, p. 63; am. 2005, ch. 359, § 14, p. 1133.]

APPENDIX F – STATUTES OF THE STATE OF IDAHO, TITLE 67 (STATE GOVERNMENT AND STATE AFFAIRS), CHAPTER 23 (MISCELLANEOUS PROVISIONS), § 67-2345 (EXECUTIVE SESSIONS – WHEN AUTHORIZED)

67-2345. Executive sessions — When authorized. —

(1) Nothing contained in this act shall be construed to prevent, upon a two-thirds (2/3) vote recorded in the minutes of the meeting by individual vote, a governing body of a public agency from holding an executive session during any meeting, after the presiding officer has identified the authorization under this act for the holding of such executive session. An executive session may be held:

(a) To consider hiring a public officer, employee, staff member or
individual agent. This paragraph does not apply to filling a vacancy in an elective office;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency;

(d) To consider records that are exempt from disclosure as provided in chapter 3, title 9, Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To consider and advise its legal representatives in pending litigation or where there is a general public awareness of probable litigation;

(g) By the commission of pardons and parole, as provided by law;

(h) By the sexual offender classification board, as provided by chapter 83, title 18, Idaho Code;

(i) By the custody review board of the Idaho department of juvenile corrections, as provided by law.

(2) Labor negotiations may be conducted in executive session if either side requests closed meetings. Notwithstanding the provisions of section 67-2343, Idaho Code, subsequent sessions of the negotiations may continue without further public notice.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.

[1974, ch. 187, § 6, p. 1492; am. 1976, ch. 124, § 1, p. 473; am. 1977, ch. 173, § 3, p. 445; am. 1978, ch. 302, § 1, p. 759; am. 1986, ch. 59, § 2, p. 167; am. 1990, ch. 213, § 92, p. 480; am. 1998, ch. 411, § 5, p. 1275; am. 2003, ch. 164, § 3, p. 462.]

(Emphasis added).

APPENDIX G – STATUTES OF THE STATE OF IDAHO, TITLE 32 (COUNTIES AND COUNTY LAW), CHAPTER 26 (PROSECUTING ATTORNEY), § 31-2603 (SPECIAL PROSECUTOR – APPOINTMENT)

***31-2603.* Special prosecutor — Appointment.**

(a) When the prosecuting attorney for the county is absent from the court, or when he has acted as counsel or attorney for a party accused in relation to the matter of which the accused stands charged, and for which he is to be tried on a criminal charge, or when he is near of kin to the party to be tried on a criminal charge, or when he has a business connection or kinship with the complainant or defendant, or when he is unable to attend to his duties, the district court may, upon petition of the prosecuting attorney or board of county commissioners, by an order entered in its minutes, stating the cause therefor, appoint some suitable person to perform for the time being, or for the trial of such accused person, the duties of such prosecuting attorney, and the person so appointed has all the powers of the prosecuting attorney, while so acting as such.

(b) The prosecuting attorney may petition the district judge of his county for the appointment of a special assistant attorney-general to assist in the prosecution of any criminal case pending in the county; and if it appears to the district judge to whom such petition is addressed that good cause appears for granting such petition, the district judge, may, with the approval of the attorney-general, appoint an assistant attorney-general to assist in such prosecution. The compensation of the person so appointed shall be fixed by agreement between the district judge and the attorney-general and shall be paid by the attorney-general out of appropriations made available for the conduct of his office.

Appendix G

[1897, p. 74, § 2; reen. 1899, p. 24, § 2; am. and reen. R.C. & C.L., § 2081; C.S., § 3654; I.C.A., § 30-2103; am. 1953, ch. 239, § 2, p. 360; am. 1988, ch. 295, § 1, p. 935.]

APPENDIX H –IDAHO RULES OF CIVIL PROCEDURE (I.R.C.P.), RULE 84 (a)

Rule 84(a). Judicial review of state agency and local government actions.

(1) Scope of Rule 84. The procedures and standard of review applicable to judicial review of state agency and local government actions shall be as provided by statute. When judicial review of an action of a state agency or local government is expressly provided by statute. When judicial review of an action of a state agency or local government is expressly provided by statute but no stated procedure or standard of review is provided in that statute, then Rule 84 provides the procedure for the district Court's judicial review. Actions of state agencies or officers or actions of a local government, its officers or its units are not subject to judicial review unless expressly authorized by statute. Rule 84 does not apply to the issuance of writs of mandate, prohibition, quo warranto, certiorari, review, or other common law or equitable writs, but petitions for judicial review under this rule may be filed with or in the alternative to petitions for these common law or equitable writs.

(2) Definitions. The terms "action," "agency," "judicial review," "petitioner" and "respondent" have the following meaning in Rule 84:

(A) "Action" means any rule, order, ordinance or other decision or lack of decision of an agency made reviewable by statute.

(B) "Agency" means any board, commission, department, or officer for which statute provides for the district court's judicial review of the agency's action.

Appendix H

(C) "Judicial review" means the district court's review pursuant to statute of actions of agencies, whether the statutory term for review is appeal or judicial review or some other term, and the term judicial review includes other terms like appeal.

(D) "Petitioner" means the person seeking judicial review and includes other terms like appellant.

(E) "Respondent" means any person responding to the petitioner's request for judicial review of the agency's action before the district court, including the agency itself.

(Adopted April 19, 1995, effective July 1, 1995; amended March 31, 1998, effective July 1, 1998, July 1, 2000, amended, effective July 1, 2002.)